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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 46

[Document Number AMS-FV-15-0045]

RIN 0581-AD50

#### Perishable Agricultural Commodities Act (PACA): Guidance on Growers' Trust Protection Eligibility and Clarification of "Written Notification"

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), is amending the regulations under the Perishable Agricultural Commodities Act (PACA or Act) to enhance clarity and improve the administration and enforcement of the PACA. The revisions will provide greater direction to the industry as to how growers and other principals that employ selling agents may preserve their PACA trust rights. The revisions will also clarify the definition of "written notification" as the term is used in 6(b) of the PACA, and the jurisdiction of USDA to investigate alleged PACA violations.

**DATES:** *Effective Date:* March 8, 2018.

**FOR FURTHER INFORMATION CONTACT:** Travis Hubbs, Chief, Investigative Enforcement Branch, 202-720-6873, or [PACAinvestigations@ams.usda.gov](mailto:PACAinvestigations@ams.usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background of Growers' Trust Protection

Congress examined the sufficiency of the PACA fifty years after its inception and determined that prevalent financing practices in the perishable agricultural commodities industry were placing the industry in jeopardy. Particularly, Congress focused on the increase in the number of buyers who failed to pay, or were slow in paying their suppliers, and

the impact of such payment practices on small suppliers who could not withstand a significant loss or delay in receipt of monies owed. Congress was also concerned by the common practice of produce buyers granting liens on their inventories to their lenders, which covered all proceeds and receivables from the sales of perishable agricultural commodities, while produce suppliers remained unpaid. This practice elevated the lenders to a secured creditor position in the case of the buyer's insolvency, while the sellers of perishable agricultural commodities remained unsecured creditors with little or no legal protection or means of recovery in a suit for damages.

Deeming this situation a "burden on commerce," Congress amended the PACA in 1984 (Pub. L. 98-273) to include a statutory trust provision, which provides increased credit security in the absence of prompt payment for perishable agricultural commodities.

Pursuant to this 1984 amendment, perishable agricultural commodities, inventories of food or other derivative products, and any receivables or proceeds from the sale of such commodities or products are to be held in a non-segregated floating trust for the benefit of unpaid sellers. This trust is created by operation of law upon the purchase of such goods, and the produce buyer is the statutory trustee for the benefit of the produce seller.

The trust is a non-segregated "floating trust" made up of all of a buyer's commodity-related assets, under which there may be a commingling of trust assets. There is no need to identify specific trust assets through each step of the accrual and disposal process. Since commingling is contemplated, all trust assets would be subject to the claims of unpaid sellers, suppliers and agents to the extent of the amount owed them. As each supplier gives ownership, possession, or control of perishable agricultural commodities to a buyer, and preserves its trust rights, that supplier becomes a participant in the trust. Consequently, trust participants remain trust beneficiaries until they have been paid in full.

Since 1984, the District Courts of the United States have had jurisdiction to entertain actions by trust beneficiaries to enforce payment from the trust (7 U.S.C. 499e(c)(5)). Therefore, in the

event of a business failure, produce creditors may enforce their trust rights by filing a trust action against the buyer in federal district court. In the event of a bankruptcy by a produce buyer, that is, the produce "debtor," the debtor's trust assets are not property of the bankruptcy estate and are not available for distribution to secured lenders and other creditors until all valid PACA trust claims have been satisfied.

Because of the PACA trust provisions, unpaid sellers, including those outside the United States, have recovered hundreds of millions of dollars that most likely would not otherwise have been collected. The PACA trust provisions protect not only growers, but also other firms trading in fruits and vegetables since each buyer in the marketing chain becomes a seller in its own turn and can preserve its own trust eligibility accordingly. Because each creditor that buys produce can preserve trust rights for the benefit of its own suppliers, any money recovered from a buyer that goes out of business is passed back through preceding sellers until ultimately the grower also realizes the financial benefits of the trust provisions. This is particularly important in the produce industry due to the highly perishable nature of the commodities as well as the many hands such commodities customarily pass through to the end customer.

In 1995, Congress amended the PACA (Pub. L. 104-48), changing several requirements of the PACA trust. Changes included no longer requiring sellers or suppliers to file notices of intent to preserve trust benefits with USDA, and allowing PACA licensees to have their invoices or other billing documents serve as the trust notice. The PACA offers two approaches to unpaid sellers, suppliers, and agents to preserve trust protection. One option allows PACA licensees to declare at the time of sale that the produce is sold subject to the PACA trust, providing protection in the event that payment is late or the payment instrument is not honored. This option allows PACA licensees to protect their trust rights by including specified language on their invoices or other billing statements (7 U.S.C. 499e(c)(4)). The second option for PACA licensees to preserve their trust rights, and the sole method for all non-licensed sellers, requires the seller to provide a separate, independent notice to the



buyer of its intent to preserve its trust benefits. The notice must include sufficient details to identify each transaction covered by the trust (7 U.S.C. 499e(c)(3)).

Recent court decisions have invalidated the trust claims of unpaid growers against their growers' agent because the growers did not file a trust notice directly with the growers' agent. Growers' agents sell and distribute produce for or on behalf of growers and may provide such services as financing, planting, harvesting, grading, packing, labor, seed, and containers. The growers have argued that it is not necessary to file a trust notice with their growers' agent because growers' agents are required to preserve the growers' rights as a trust beneficiary against the buyer (7 CFR 46.46(d)(2)). Some courts have ruled that while the growers' agent is required to preserve the growers' trust benefits with the buyer of the produce, the grower has the responsibility to preserve its trust benefits with the growers' agent. This action provides guidance to growers to clarify their responsibilities in preserving their trust rights.

#### **“Written Notification” Background**

The 1995 amendments to the PACA require written notification to USDA as a precursor to investigations of alleged violations of the PACA. In recent years, produce entities have challenged the USDA's jurisdiction to conduct investigations based on their narrow reading of the definition of “written notification” stated in § 46.49 of the regulations (7 CFR 46.49). The amendment of § 46.49 (7 CFR 46.49) makes it clear that public filings such as bankruptcy petitions, civil trust actions, and judgments constitute written notification. Moreover, AMS clarifies that the filing of a written notification with USDA may be accomplished by a myriad of means including, but not limited to, delivery by regular or commercial mail service, hand delivery, or electronic means such as email, text, or facsimile message. Furthermore, a written notification published in any public forum including, but not limited to, a newspaper or internet website, will be considered filed with USDA upon its visual inspection by any office or official of USDA responsible for administering the Act. Clarification of the meaning of “written notification” ensures that PACA licensees and entities operating subject to the PACA understand the breadth of documentation that could trigger USDA's authority to initiate an investigation of alleged PACA violations.

#### **Notice of Proposed Rulemaking and Final Rule**

In order to enhance clarity and improve the administration and enforcement of the PACA, a proposed rule to amend PACA regulations was published in the **Federal Register** on December 14, 2016 [81 FR 90255]. The comment period initially closed on February 13, 2017. However, the comment period was extended an additional 30 days. The reopening of the comment period was published in the **Federal Register** on February 17, 2017. The second comment period closed on March 15, 2017.

This final rule amends 7 CFR 46.46 by revising paragraphs (d) and (f)(1)(vi) to clarify that growers or other types of principals who employ agents to sell perishable agricultural commodities on their behalf are among the class of “suppliers or sellers” referenced in section 5(c) of the PACA (7 U.S.C. 499e(c)) and, as such, must preserve their trust benefits against their agents. The revision of paragraph (f)(1)(iv) will identify additional types of documents that can be used in a notice of intent to preserve trust benefits.

This final rule also amends 7 CFR 46.49 by revising it to clarify the meaning of “written notification” as the term is used in section 6(b) of the PACA (7 U.S.C. 499f(b)). Additionally, to reflect current industry practices and advancements in electronic communication, AMS revises § 46.49(d) (7 CFR 46.49(d)) to allow the Secretary to serve a notice or response, as it relates to paragraph (d), by any electronic means, such as registered email, that provides proof of receipt to the electronic mail address or phone number of the subject of the investigation.

#### **Comments**

AMS received timely filed comments from three parties. One commenter did not address the proposed amendments to the regulations.

The second commenter, a California agricultural trade association, strongly supported the revision to § 46.49 (7 CFR 46.49) stating, that “[t]his clarification now will insure that the industry . . . will understand the breadth of documentation that could trigger USDA's authority to initiate an investigation of alleged PACA violations.” This commenter generally supported the proposed amendment to § 46.46 (7 CFR 46.46) and recommended that “a mechanism for non-licensed growers be instituted to allow for a simplified method and clear pathway which allows growers to preserve their

PACA Trust rights.” This commenter also suggested the possibility of “a reduced license fee for growers based on their volume,” allowing them to obtain a PACA license “at a reduced rate that permits them to utilize the automatic method of preserving Trust rights by applying the necessary PACA language to their billing documents.”

We do not adopt the suggestion for a reduced fee for growers based on the grower's volume because it raises significant concerns with respect to implementation on the part of the agency. Adopting a PACA license fee structure based on a grower's “volume” as the commenter suggested would require that growers disclose sales and financial information currently not requested or required of growers to obtain a PACA license, thereby placing an additional burden on the growers to supply confidential information. Similarly, it would subject growers to regular monitoring and verification of the growers' sales information. As the commenter recognizes, the PACA stipulates that only PACA licensees can preserve their trust rights by including trust language on their invoices or other billing documents. Growers are currently not required to obtain a PACA license, but may choose to do so at the established fee, thus enabling them to include the statutory trust language on their billing documents. The statute currently does not provide for the creation of a separate fee structure for growers or a simplified method that allows unlicensed growers to preserve their trust rights as proposed by the commenter.

The third commenter, an attorney, did not comment on the proposed amendment of § 46.46 (7 CFR 46.46) but strongly objected to the proposed revisions to § 46.49 (7 CFR 46.49), alleging that they unlawfully expand USDA's authority, contrary to the PACA. The commenter raised four primary concerns with the revision, contending that:

1. The revision circumvents the clear statutory language of PACA. The commenter states that, with respect to initiating an investigation, “instead of merely acknowledging new types of triggering media, the proposed rule goes too far by removing the necessary middle man (*i.e.*, an “interested person”) required by Congress.” The commenter contends that the proposed revision circumvents the requirement that an interested person must file written notice with the USDA or with an employee of the USDA administering the Act.

2. The proposed revision renders portions of PACA meaningless,

bypassing jurisdictional requirements. The commenter contends that the proposed revision circumvents the filing requirement, claiming, for instance, that, “[i]f an employee of the USDA administering PACA can merely look at a document and the same will be deemed filed, the meaning of the term ‘filing’ is lost. Further, there would be no ‘interested person’ making the filing subject to penalty for falsity,” and there would be no filing of a notice, no delivery to USDA, and no “written notification” to inform USDA of an alleged violation of the PACA.

3. The proposed revision frustrates PACA’s election of remedies provision under 7 U.S.C. 499e(5). The commenter reasons that “[t]he proposed amendment frustrates this election of remedies, in that it would allow the filing of a complaint or other similar legal document in a court of competent jurisdiction (e.g., U.S. District Court or U.S. Bankruptcy Court) to be deemed a filed written notification sufficient to initiate an investigation by the USDA as well.”

4. The proposed revision frustrates the purpose and practical application of 7 CFR 46.46(e)(3). The commenter asserts that the proposed revision would allow the USDA to ignore parties’ decision not to notify or involve USDA in a private dispute and “to exceed its jurisdictional grant and insert itself into the private contractual affairs of businesses in the industry.”

We disagree with the commenter’s assertion that the revision unlawfully expands USDA’s authority, contrary to the PACA. Congress established the PACA in 1930 to protect buyers and sellers of fresh and frozen fruits and vegetables, and the statute and the accompanying regulations have been amended over time to remain relevant to the industry that the PACA serves. The proposed revisions to § 46.49 (7 CFR 46.49) recognize the current realities of the information age that were not readily available when Congress last amended the PACA in 1995. The USDA cannot ignore public information that is relevant to the implementation of the PACA simply because Congress did not anticipate the expanding availability of digital information. Currently, information is much more likely to be generated, stored, and disseminated in electronic or digital format. The USDA has an obligation to properly enforce the PACA as Congress intended, protecting the buyers and sellers of perishable agricultural commodities. When electronic information is readily available to USDA, its hands should not be tied and the information ignored, when those it is tasked to protect could

be negatively affected by that lack of action.

The 1995 amendments to the PACA require written notification as a precursor to the investigation of alleged violations of the PACA. The amendments were designed to protect against arbitrary or capricious investigations of licensees and unwarranted prosecutions; the amendments ensured that a source *outside* the agency of the Department of Agriculture that administers the Act, including but not limited to “any other interested person who has knowledge of or information regarding a possible violation”, provided the impetus for investigation. The proposed revisions to § 46.49 (7 CFR 46.49) do not alter that proposition or erode those protections.

As stated, the proposed revisions are intended to address societal advances in information transmittal and communication, and technological evolution of the industry that the PACA serves. They in no way circumvent the requirement that a written notification be made by an “interested party” that is impartial, insofar as that party is not charged with administering the Act. Nor do they in any way reduce the reliability of the written notification; the submitters of a written notification, prior to the revisions, were not subject to penalty for unreliability or falsity (as is suggested by the third commenter), nor are they post-revisions.

It has always been the purview of the USDA to determine the reliability of any written notice and to decide whether an investigation based on that notice is reasonable and warranted.

Section 6(c) of the PACA (7 U.S.C. 499e(c)) concerns investigations of complaints and notifications listed in both paragraphs (a) and (b) of section 6 of the Act. This section states that: “[i]f there appears to be, in the opinion of the Secretary, reasonable grounds for investigating a complaint made under subsection (a) or a written notification made under subsection (b), the Secretary shall investigate such complaint or notification.” USDA will evaluate the information it receives and determine if an investigation is warranted. If the information is meaningless, meritless or unverifiable, USDA will not initiate an investigation.

Written allegations from an outside source (outside the PACA Division), are merely precursors to a possible investigation under the PACA. It is USDA’s responsibility to determine if violations against the PACA were committed, regardless of whether USDA receives an allegation directly from an interested party or from a competent source (e.g., State government

documents, court filings, official bankruptcy records). When USDA receives notice of an allegation, the allegation must necessarily be examined, processed, and deliberated upon to assess whether reasonable grounds exist to investigate. There are intervening steps between the receipt of a written notice and an investigation.

The proposed amendment adds an alternative manner in which written notifications may be filed with USDA. The original method of filing contained in the regulations remains unchanged. Public records (court filings, news articles, etc.) that allege a violation of the PACA constitute written notification, and upon review by USDA, are deemed “filed” and may be sufficient to warrant the initiation of an investigation. The complaining party has to file or submit its complaint to some entity that has the authority to make its complaint public in order for USDA to be able to view it. An alleged violator of the PACA should not be able to avoid a possible administrative enforcement investigation simply because its accuser did not provide its written notification directly to USDA.

The third commenter states that the proposed revisions frustrate the PACA’s election of remedies provision (7 U.S.C. 499e(5)) and the purpose and practical application of 7 CFR 46.46(e)(3). Those sections of the Act and regulations outline the remedies available to any private person or persons seeking to recover monetary damages resulting from any PACA violation(s), and eligibility of that person or persons to claim trust benefits under the Act. The proposed revisions to § 46.49 (7 CFR 46.49) pertain only to the authority of USDA to investigate alleged PACA violation(s) for administrative enforcement purposes pursuant to section 6(b) of the Act. The proposed regulatory amendments neither implicate nor frustrate the intent or application of the election of remedies or trust provisions of the Act and regulations referenced by the commenter.

For the reasons outlined above, the proposed revisions to §§ 46.46 and 46.49 (7 CFR 46.46 and 46.49) remain unchanged in the final rule.

*Executive Orders 12866, 13563, and 13771*

This final rule has been reviewed under Executive Order 12866 supplemented by Executive Order 13563 and it has been determined that this final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, it was not reviewed by

the Office of Management and Budget. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

#### *Executive Order 12988*

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule.

#### *Executive Order 13175*

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, consultation and Coordination with Indian Tribal governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

#### *Final Regulatory Flexibility Act*

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), USDA has considered the economic impact of this final rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, Agricultural Marketing Service (AMS) has prepared this final regulatory flexibility analysis.

Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201). There are approximately 14,500 firms licensed under the PACA, a majority of which could be classified as small entities. Historically, the produce industry has been an entry-level job market. There is a constant turnover involving the closing and opening of businesses. Produce firms generally start as small business entities.

AMS believes that these amendments to the PACA regulations will help all growers, sellers, and suppliers of produce, small or large, to protect their rights under the PACA trust, resulting in the potential recovery of millions of dollars in unpaid produce debt. Moreover, AMS believes that these regulatory amendments more accurately reflect the intent of Congress when it

amended the PACA to require written notification as a precursor to investigations by the Secretary of Agriculture.

AMS believes this final rule increases the clarity of the PACA regulations and improves AMS's enforcement of the PACA. AMS has determined that this rule will have no significant economic impact on a substantial number of small entities.

#### *Paperwork Reduction Act*

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are covered by this final rule are currently approved under OMB number 0581-0031. No changes to those requirements are necessary as a result of this action. Should any changes become necessary, they will be submitted to OMB for approval.

#### *E-Government Act Compliance*

USDA is committed to complying with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Forms are available on the PACA website at <http://www.ams.usda.gov/rules-regulations/paca> and can be printed, completed, and submitted by email, facsimile, or postal delivery.

#### **List of Subjects in 7 CFR Part 46**

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements. For the reasons set forth in the preamble, 7 CFR part 46 is amended as follows:

#### **PART 46—[AMENDED]**

■ 1. The authority citation for part 46 continues to read as follows:

**Authority:** 7 U.S.C. 499a–499t.

■ 2. Amend § 46.46 by revising paragraphs (d) and (f)(1)(iv) to read as follows:

#### **§ 46.46 Statutory trust.**

\* \* \* \* \*

(d) *Trust maintenance.* (1) Licensees and persons subject to license are required to maintain trust assets in a manner so that the trust assets are freely available to satisfy outstanding obligations to sellers of perishable agricultural commodities. Any act or omission which is inconsistent with this responsibility, including dissipation of trust assets, is unlawful and in violation of section 2 of the Act (7 U.S.C. 499b).

Growers, licensees, and persons subject to license may file trust actions against licensees and persons operating subject to license. Licensees and persons subject to license are bound by the trust provisions of the Act (7 U.S.C. 499(e)).

(2) Principals, including growers, who employ agents to sell perishable agricultural commodities on their behalf are “suppliers” and/or “sellers” as those words are used in section 5(c)(2) and (3) of the Act (7 U.S.C. 499e(c)(2) and (3)), and therefore must preserve their trust rights against their agents by filing a notice of intent to preserve trust rights with their agents as set forth in paragraph (f) of this section.

(3) Agents who sell perishable agricultural commodities on behalf of their principals must preserve their principals' trust benefits against the buyers by filing a notice of intent to preserve trust rights with the buyers. Any act or omission which is inconsistent with this responsibility, including failure to give timely notice of intent to preserve trust benefits, is unlawful and in violation of section 2 of the Act (7 U.S.C. 499b).

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(iv) The amount past due and unpaid; except that if a supplier, seller or agent engages a commission merchant or growers' agent to sell or market their produce, the supplier, seller or agent that has not received a final accounting from the commission merchant or growers' agent shall only be required to provide information in sufficient detail to identify the transaction subject to the trust.

\* \* \* \* \*

■ 3. Section 46.49 is revised to read as follows:

#### **§ 46.49 Written notifications and complaints.**

(a) Written notification, as used in section 6(b) of the Act (7 U.S.C. 499f (b)), means:

(1) Any written statement reporting or complaining of a violation of the Act made by any officer or agency of any State or Territory having jurisdiction over licensees or persons subject to license, or a person filing a complaint under section 6(a), or any other interested person who has knowledge of or information regarding a possible violation of the Act, other than an employee of an agency of USDA administering the Act;

(2) Any written notice of intent to preserve the benefits of, or any claim for payment from, the trust established under section 5 of the Act (7 U.S.C. 499e);

(3) Any official certificate(s) of the United States Government or States or Territories of the United States; or

(4) Any public legal filing or other published document describing or alleging a violation of the Act.

(b) Any written notification may be filed by delivering the written notification to any office of USDA or any official of USDA responsible for administering the Act. Any written notification published in any public forum, including, but not limited to, a newspaper or an internet website shall be deemed filed upon visual inspection by any office of USDA or any official of USDA responsible for administering the Act. A written notification which is so filed, or any expansion of an investigation resulting from any indication of additional violations of the Act found as a consequence of an investigation based on written notification or complaint, also shall be deemed to constitute a complaint under section 13(a) of the Act (7 U.S.C. 499m(a)).

(c) Upon becoming aware of a complaint under section 6(a) or written notification under 6(b) of the Act (7 U.S.C. 499f (a) or (b)) by means described in paragraph (a) and (b) of this section, the Secretary will determine if reasonable grounds exist to conduct an investigation of such complaint or written notification for disciplinary action. If the investigation substantiates the existence of violations of the Act, a formal disciplinary complaint may be issued by the Secretary as described in section 6(c)(2) of the Act (7 U.S.C. 499f(c)(2)).

(d) Whenever an investigation, initiated as described in section 6(c) of the Act (7 U.S.C. 499f(c)(2)), is commenced, or expanded to include new violations of the Act, notice shall be given by the Secretary to the subject of the investigation within thirty (30) days of the commencement or expansion of the investigation. Within one hundred and eighty (180) days after giving initial notice, the Secretary shall provide the subject of the investigation with notice of the status of the investigation, including whether the Secretary intends to issue a complaint under section 6(c)(2) of the Act (7 U.S.C. 499f(e)(2)), terminate the investigation, or continue or expand the investigation. Thereafter, the subject of the investigation may request in writing, no more frequently than every ninety (90) days, a status report from the Director of the PACA Division who shall respond to the written request within fourteen (14) days of receiving the request. When an investigation is terminated, the Secretary shall, within fourteen (14)

days, notify the subject of the termination of the investigation. In every case in which notice or response is required under this paragraph (d), such notice or response shall be accomplished by personal service; or by posting the notice or response by certified or registered mail, or commercial or private delivery service to the last known address of the subject of the investigation; or by sending the notice or response by any electronic means such as registered email, that provides proof of receipt to the electronic mail address or phone number of the subject of the investigation.

Dated: January 29, 2018.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2018-02066 Filed 2-5-18; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2017-0074]

#### Supplemental Requirements for Importation of Fresh Citrus From Colombia Into the United States

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notification of supplemental requirements; request for comments.

**SUMMARY:** We are notifying the public of our decision to supplement our requirements governing the importation of fresh sweet orange, grapefruit, mandarin, clementine, and tangerine fruit from Colombia into the United States and are requesting public comment on these changes. We have determined that, in order to mitigate the current pest risks posed by the importation of these commodities from Colombia into the United States, it is necessary to supplement the phytosanitary requirements now in place with additional requirements. This action will help to protect the United States against plant pests while allowing the resumption of imports of fresh sweet orange, grapefruit, mandarin, clementine, and tangerine fruit from Colombia, which were suspended in 2016 due to the discovery of new plant pests in South America.

**DATES:** These requirements will be authorized for use on fresh sweet orange, grapefruit, mandarin,

clementine, and tangerine fruit from Colombia beginning February 6, 2018. We will consider all comments that we receive on or before April 9, 2018.

**ADDRESSES:** You may submit comments by either of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0074>.

- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS-2017-0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0074> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2352.

#### SUPPLEMENTARY INFORMATION:

Under the regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–81, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world in an effort to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–3, which includes general import requirements for fruits and vegetables, authorizes the importation of fresh sweet orange (*Citrus sinensis* (L.), grapefruit (*Citrus paradisi* MacFad), mandarin (*Citrus reticulata* Blanco), clementine (*Citrus clementina* Hort. Ex Tanaka), and tangerine (*Citrus tangerine* Tanaka) fruit from Colombia into the United States. The general import requirements include an import permit issued by APHIS and inspection of the fruit by APHIS officials at the port of first arrival. Additionally, as a condition of

entry,<sup>1</sup> APHIS requires consignments of fresh citrus fruit from Colombia to undergo cold treatment in accordance with 7 CFR part 305.

In March 1963, USDA authorized imports of citrus fruit into the United States from Colombia. In 1995, Colombia stopped shipping commercial consignments of citrus fruit to the United States because of decreased citrus production and increased domestic citrus consumption. Twenty years later, in December 2015, Colombia announced their intention to resume exporting commercial consignments of citrus to the United States. That same month, APHIS notified the national plant protection organization (NPPO) of Colombia that it was temporarily suspending its authorization for imports of sweet oranges, tangerines, grapefruit, clementines, and mandarins from Colombia and cancelling permits until further notice. The NPPO of Colombia acknowledged the suspension and no shipments of citrus from Colombia entered the United States. We suspended imports because we noted the emergence of new citrus pests in South America since Colombia initially received approval to export citrus fruit to the United States. In order to protect the United States from plant pests following the pathway of citrus imported from Colombia, we decided to assess the risk potential of these new citrus pests and develop mitigation requirements before considering a request from the NPPO of Colombia on whether to lift the temporary suspension on commercial shipments.

To determine the current pest risk potential, we prepared a pest risk assessment (PRA), followed by a commodity import evaluation document (CIED) that details risk mitigation measures. Copies of the PRA and the CIED may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the *Regulations.gov* website (see **ADDRESSES** for instructions for accessing *Regulations.gov*).

The PRA, titled "Importation of Fresh Citrus Fruit, including Sweet Oranges (*Citrus sinensis* (L.), Grapefruit (*C. paradisi* Macfad.), Mandarin (*C. reticulata* Blanco), Clementine (*C. clementina* Hort. Ex Tanaka), and Tangerine (*C. tangerina* Tanaka) from Colombia into the United States (October 2016)," evaluates the risks associated with the importation of fresh citrus fruit from Colombia into the

United States. The CIED relies upon the findings of the PRA to establish phytosanitary risk management measures necessary to ensure the safe importation into the United States of fresh citrus fruit from Colombia.

Eleven pests that could follow the pathway of fresh citrus fruit imported from Colombia met the threshold for unacceptable consequences of introduction into the United States:

- *Brevipalpus obovatus* Donnadieu, privet mite, ornamental flat mite;
- *Brevipalpus phoenicis* (Geijskes), red and black flat mite;
- *Schizotetranychus hindustanicus* (Hirst), Hindustan citrus mite;
- *Neosilba pendula* Bezzi, cassava shoot fly, lance fly;
- *Neosilba zadolicha* (McAlphine and Steyskal), lonchaeid fly, lance fly;
- *Anastrepha fraterculus* (Wiedemann), South American fruit fly;
- *Anastrepha serpentina* (Wiedemann), sapote fruit fly;
- *Anastrepha striata* Schiner, guava fruit fly;
- *Ceratitidis capitata* (Wiedemann), Mediterranean fruit fly, Medfly;
- *Gymnandrosoma aurantianum* (Lima), citrus fruit borer; and
- Citrus leprosis virus, CILV.

Our assessment indicated that the citrus fruit borer, as well as the South American, guava, and Mediterranean fruit flies, have a high likelihood of following the pathway of citrus fruit from Colombia. All other quarantine pests on the list were determined to have a medium likelihood of doing so.

We determined from the PRA that the import requirements originally established for citrus fruit from Colombia were no longer sufficient to mitigate the risk posed by these quarantine pests. These conditions were the general import requirements enumerated in § 319.56–3 and two of the five designated phytosanitary measures listed under § 319.56–4(b), specifically, that citrus fruit be treated in accordance with 7 CFR part 305 and inspected by APHIS officials at the port of first arrival.

Under § 319.56–4(d) of the regulations, if we determine that one or more of the five designated phytosanitary measures is not sufficient to mitigate the risk posed by the fruits and vegetables that are currently authorized for importation into the United States under § 319.56–4, we will prohibit or further restrict importation of the fruit or vegetable and may also publish a document in the **Federal Register** advising the public of our finding. The document will specify the amended import requirements, provide an effective date for the change, and will

invite public comment on the subject. We are publishing this notification of our decision to supplement the import requirements for Colombian citrus in accordance with this provision.

Based on our findings in the PRA, we are requiring the application of the additional pest risk management measures identified in the CIED in order for sweet oranges, tangerines, grapefruit, clementines, and mandarins to be eligible for importation from Colombia into the United States. These measures, discussed in further detail below, are: (1) Importation in commercial consignments only, (2) production of fruit only in places of production registered and approved by the NPPO, (3) effective fruit fly trapping programs in the places of production, and (4) standard packinghouse procedures. Furthermore, each commercial consignment must be accompanied by a phytosanitary certificate with an additional declaration issued by the NPPO of Colombia.

APHIS and the NPPO of Colombia have agreed to an operational workplan that details how the risk management measures listed in the CIED will be carried out, subject to APHIS' approval. APHIS will be directly involved with the NPPO in monitoring and auditing implementation of the operational workplan. The additional import requirements for fresh citrus from Colombia are described below.

### Commercial Consignments

We are requiring that only commercial consignments of fresh sweet oranges, tangerines, grapefruit, clementines, and mandarins be accepted for export from Colombia into the United States. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, or is grown with little or no pest control. Commercial consignments, as defined in § 319.56–2 of the regulations, are consignments that an inspector identifies as having been imported for sale and distribution.

In addition, fresh sweet oranges, tangerines, grapefruit, clementines, and mandarins in commercial consignments for export from Colombia into the United States must be practically free of leaves, twigs and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

<sup>1</sup> Condition of entry requirements are listed in the APHIS Fruits and Vegetables Import Requirements (FAVIR) database: [https://epermits.aphis.usda.gov/manual/index.cfm?action=cirReportP&PERMITTED\\_ID=5735](https://epermits.aphis.usda.gov/manual/index.cfm?action=cirReportP&PERMITTED_ID=5735).

### Production Site Requirements

We are also requiring that sweet oranges, tangerines, grapefruit, clementines, and mandarins intended for importation into the United States from Colombia be grown only in places of production that are registered with, and approved by, the NPPO of Colombia. APHIS reserves the right to conduct audits and inspect the places of production, as necessary.

Identity and origin of the fruit must be maintained from the grove, through the packing house, and through export of consignments to the United States. Registration makes it easier to trace consignments of fruit back to the place of production and to apply remedial measures or the removal of places of production from the import program in accordance with the operational workplan if quarantine pests are discovered in consignments destined for the United States.

In addition, we are requiring that plant litter and fallen fruit be removed from the places of production to reduce potential fruit fly, lonchaeid fly, and Lepidoptera host material. Plant litter and fallen fruit must not be included in field containers of fruit brought to the packinghouse to be packed for export to the United States.

We are also requiring that the NPPO of Colombia certify that the places of production growing sweet oranges, tangerines, grapefruit, clementines, and mandarins for export to the United States have effective fruit fly trapping programs approved by APHIS and that places of production follow pest control guidelines, when necessary, to reduce regulated pest populations. Personnel conducting the trapping and pest surveys must be hired, trained, and supervised by the NPPO of Colombia or be personnel authorized by the NPPO. Details of the trapping program will be included in the operational workplan.

To ensure that the trapping is being properly conducted, we are requiring that the NPPO of Colombia keep records of fruit fly detections for each trap and make the records available to APHIS upon request. The NPPO is required to maintain such records for at least 3 years. The NPPO of Colombia is also required to regularly visit and inspect places of production through the citrus exporting season, starting 30 days before harvest and continuing until the end of the shipping season, to ensure that growers and packers are following export protocols. If the NPPO of Colombia finds that a place of production is not complying with the requirements of the operational workplan agreed to between APHIS and

the NPPO, no fruit from that place of production will be eligible for export to the United States until APHIS and the NPPO conduct an investigation and appropriate remedial actions have been implemented.

### Packinghouse Requirements

Fresh sweet oranges, tangerines, grapefruit, clementines, and mandarins from Colombia intended for importation into the United States must be packed in a packinghouse registered with the NPPO of Colombia. Such registration facilitates traceback of a consignment of citrus to the packinghouse in which it was packed in the event that quarantine pests were discovered in the consignment at the port of first arrival into the United States.

We require the NPPO of Colombia to monitor and audit the harvesting system and ensure that during the time the packinghouse is in use for exporting fruit to the United States, the packinghouse must clearly segregate and identify fruit for export to the United States to prevent commingling with fruit for other markets.

At the packinghouse, we require that the fruit be washed and brushed and any damaged or diseased fruit culled. Many of the quarantine pests listed in the PRA have stages that are visible upon inspection or cause visible damage. Washing and brushing removes insects and mites from fruit, and culling removes fruit with visible signs of insect and mite damage, which reduces the risk that pests will follow the pathway of citrus fruit exported to the United States.

### Post-Harvest Processing

We are requiring that fruit intended for export to the United States be packed within 24 hours of harvest in an enclosed packinghouse or maintained in cold storage. Fruit must be kept in cold storage or cold treatment while in transit until the fruit arrives in the United States.

In addition, the fruit must be inspected by the NPPO of Colombia or personnel authorized by the NPPO following post-harvest processing. A biometric sample, to be jointly determined by APHIS and the NPPO and listed in the operational workplan, will be visually inspected, and a portion of the fruit will be cut open to detect internal pests, such as fruit flies and Lepidoptera larvae. If a single mite (*Brevipalpus obovatus*, *B. phoenicis* or *Schizotetranychus hindustanicus*), any immature stage of *Neosilba* spp., or immature stage of *Gymnandrosoma aurantianum* is found during inspection, the entire lot of fruit will be

prohibited from importation into the United States.

Fruit may be imported into the United States only if it is treated in accordance with 7 CFR part 305 with an approved quarantine treatment for *Ceratitis capitata* and *Anastrepha* spp.<sup>2</sup> listed in the Plant Protection and Quarantine Treatment Manual and monitored by an official authorized by APHIS. U.S. Customs and Border Protection personnel will inspect fruit consignments at the port of entry.

### Monitoring and Oversight

We require the NPPO of Colombia to provide oversight for all program activities, including monitoring phytosanitary control programs, by reviewing them at least once a year, and by maintaining all forms and documents related to activities in places of production and packing houses in the export program. APHIS may monitor places of production, packinghouses, and records if necessary.

### Phytosanitary Certificate

We require that fresh sweet oranges, tangerines, grapefruit, clementines, and mandarins imported into the United States from Colombia be accompanied by a phytosanitary certificate with an additional declaration issued by the NPPO of Colombia stating that the fruit in the consignment has been produced in accordance with the requirements of the operational workplan.

The amended import requirements are listed in the FAVIR database upon publication of this document. After the close of the comment period, we will publish a second document responding to any comments we receive. Should these comments raise substantive questions or concerns about the supplemental requirements for importation of fresh sweet oranges, tangerines, grapefruit, clementines, and mandarins into the United States from Colombia, we will reevaluate the requirements accordingly.

*Authority:* 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 1st day of February 2018.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2018–02382 Filed 2–5–18; 8:45 am]

**BILLING CODE 3410–34–P**

<sup>2</sup> Cold treatment schedule T107–a–1, “Treatment Schedules,” page 5–2–80. Prescribed treatments are also included in the FAVIR database (see footnote 1).

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

[Docket No. FAA-2018-0024; Product Identifier 2018-NM-002-AD; Amendment 39-19171; AD 2018-02-18]

RIN 2120-AA64

**Airworthiness Directives; Airbus Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Airbus Model A318, A319, and A320 series airplanes and Model A321-111, -112, -131, -211, -212, -213, -231, -232 airplanes. This AD requires revising the airplane flight manual (AFM) to provide guidance to the flight crew for emergency procedures when erroneous airspeed indications are displayed on the back-up speed scale (BUSS). This AD was prompted by a determination that, when two angle of attack (AoA) sensors are adversely affected by icing conditions at the same time, data displayed on the BUSS could be erroneous. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective February 21, 2018.

We must receive comments on this AD by March 23, 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.

**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-2018-0024; 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:**

Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149.

**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 Airworthiness Directive 2017-0257R1, dated January 9, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A318, A319, and A320 series airplanes, and Model A321-111, -112, -131, -211, -212, -213, -231, -232 airplanes. The MCAI states:

In extreme icing conditions, pitot probes may induce erroneous airspeed indications. Airbus developed a Back-up Speed Scale (BUSS and reversible BUSS, based on angle of attack (AoA) value) displayed on the Primary Flight Display (PFD), together with a PFD Back-Up Altitude Scale based on Global Positioning System (GPS) altitude to provide flight crews with reliable information on airspeed. This BUSS is intended to be used below flight level (FL) 250 only (above FL250, the BUSS is disconnected). Following new investigation related to AoA probes blockages, it was identified that, when two AoA sensors are adversely affected by icing conditions at the same time, data displayed on the BUSS could be erroneous.

This condition, if not corrected, could lead to an increased flight crew workload, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, Airbus established specific operational instructions to be applied by the flight crew under certain defined conditions. The relevant procedure has been incorporated into the applicable A320 family Aircraft Flight Manual (AFM) since 07 March 2017 (publication date).

For the reason described above, this [EASA] AD requires a one-time AFM amendment to introduce the additional operational procedure [to provide guidance to the flight crew for emergency procedures when erroneous airspeed indications are displayed on the BUSS].

\* \* \* \* \*

This AD contains a figure derived from the MCAI with content written by Airbus. Because this content (including the Airbus logo) is already publicly available through the MCAI, which is a public document, it is not subject to copyright protection.

You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0024.

**FAA's Determination and Requirements of This 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 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 these same type designs.

**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 when two AoA sensors are adversely affected by icing conditions at the same time, data displayed on the BUSS could be erroneous, leading to an increased flight crew workload that could ultimately result in reduced control 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-2018-0024; Product Identifier 2018-NM-002-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 1,180 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
AFM revision .....	1 work-hour × \$85 per hour = \$85 .....	\$0	\$85	\$100,300

### 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):

**2018-02-18 Airbus:** Amendment 39-19171; Docket No. FAA-2018-0024; Product Identifier 2018-NM-002-AD.

#### (a) Effective Date

This AD becomes effective February 21, 2018.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(4)

of this AD, certificated in any category, all manufacturer serial numbers on which Airbus modification 35871 has been embodied in production or Airbus Service Bulletin A320-34-1397 has been embodied in service, except airplanes on which Airbus modification 159281 has also been embodied in production or Airbus Service Bulletin A320-34-1658 or Airbus Service Bulletin A320-34-1659 has also been embodied in service.

(1) Model A318-111, -112, -121, and -122 airplanes.

(2) Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes.

(3) Model A320-211, -212, -214, -216, -231, -232, -233, -251N, and -271N airplanes.

(4) Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes.

#### (d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

#### (e) Reason

This AD was prompted by a determination that, when two angle of attack (AoA) sensors are adversely affected by icing conditions at the same time, data displayed on the back-up speed scale (BUSS) could be erroneous. We are issuing this AD to address erroneous airspeed data displays, which could lead to an increased flight crew workload, possibly resulting in reduced control of the airplane.

#### (f) Compliance

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

#### (g) Airplane Flight Manual (AFM) Revision

Except for airplanes identified in paragraph (h) of this AD: Within 30 days after the effective date of this AD, revise the AFM to incorporate the procedure specified in figure 1 to paragraphs (g) and (h) of this AD, and thereafter operate the airplane accordingly. When a procedure identical to that in figure 1 to paragraphs (g) and (h) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM.

**BILLING CODE 4910-13-P**



**Figure 1 to paragraphs (g) and (h) of this AD – AFM procedure**

<b>AIRBUS</b>  <b>A318/A319/A320/A321</b> AIRPLANE FLIGHT MANUAL	<b>EMERGENCY PROCEDURES</b>  <b>NAVIGATION</b>
---	--

<b>NAV - ADR 1+2+3 FAULT</b>
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Ident.: **EMER-34-00007047.0001001 / 02 MAR 17** **APPROVED**  
 Criteria: (SA and (154033 or 35871))  
 Impacted by TDU: 00014228 NAV - ADR 1+2+3 FAULT

<sup>1</sup> **Note:** *Flight controls are in alternate law. Refer to ABN-27 F/CTL - ALTN LAW (PROT LOST).*

Disconnect autopilot.  
 Turn off flight directors.  
 Disconnect autothrust.  
 Turn off all ADRs.  
 Fly the green area of the speed scale.

**Note:**

1. *Standby instruments may be unreliable.*
2. *The altitude displayed on the PFD is a GPS altitude.*
3. *Automatic cabin pressurization system is inoperative. Refer to ABN-21 CAB PR - SYS 1 + 2 FAULT.*
4. *Rudder travel limiter is inoperative. Refer to ABN-22-AUTOFLT AUTO FLT - RUD TRV LIM SYS.*
5. *If the BUSS does not react to longitudinal stick input when flying the green area of the speed scale, the flight crew must disregard the BUSS and adjust pitch attitude and thrust regarding flight phase and aircraft configuration to obtain and maintain target.*

Do not use speed brakes.  
 Maneuver with care.

● **When FLAPS 2:**  
 Extend landing gear by gravity. *Refer to ABN-32 L/G GRAVITY EXTENSION.*

Approach speed: fly the bug.  
 Apply necessary landing performance corrections.

Figure 1 to paragraphs (g) and (h) of this AD – *AFM procedure continued*

<b>AIRBUS</b>  <b>A318/A319/A320/A321</b> AIRPLANE FLIGHT MANUAL	<b>EMERGENCY PROCEDURES</b>  <b>NAVIGATION</b>
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<b>NAV - ADR 1+2+3 FAULT</b>
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Ident.: EMER-34-00007047.0005001 / 02 MAR 17 Criteria: (SA and ((154033 or 35871) and 151269)) Impacted by TDU: 00014228 NAV - ADR 1+2+3 FAULT	APPROVED
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2 *Note:* Flight controls are in alternate law. Refer to ABN-27 F/CTL - ALTN LAW (PROT LOST).

Disconnect autopilot.  
 Turn off flight directors.  
 Disconnect autothrust.  
 Turn on probe and window heat.  
 Turn off all ADRs.  
 Fly the green area of the speed scale.

*Note:*

1. Standby instruments may be unreliable.
2. The altitude displayed on the PFD is a GPS altitude.
3. Automatic cabin pressurization system is inoperative. Refer to ABN-21 CAB PR - SYS 1 + 2 FAULT.
4. Rudder travel limiter is inoperative. Refer to ABN-22-AUTOFLT AUTO FLT - RUD TRV LIM SYS.
5. If the BUSS does not react to longitudinal stick input when flying the green area of the speed scale, the flight crew must disregard the BUSS and adjust pitch attitude and thrust regarding flight phase and aircraft configuration to obtain and maintain target.

Do not use speed brakes.  
 Maneuver with care.

● **When FLAPS 2:**

Extend landing gear by gravity. Refer to ABN-32 L/G GRAVITY EXTENSION.

Approach speed: fly the bug.  
 Apply necessary landing performance corrections.

**Figure 1 to paragraphs (g) and (h) of this AD – AFM procedure continued**

<b>AIRBUS</b>  <b>A318/A319/A320/A321</b> AIRPLANE FLIGHT MANUAL	<b>EMERGENCY PROCEDURES</b>  <b>NAVIGATION</b>
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<b>NAV - ADR 1+2+3 FAULT</b>
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Ident.: **EMER-34-00007047.0003001 / 02 MAR 17** **APPROVED**  
 Criteria: (SA and ((154033 or 35871) and 38298))  
 Impacted by TDU: 00014228 NAV - ADR 1+2+3 FAULT

<sup>3</sup> **Note:** *Flight controls are in alternate law. Refer to ABN-27 F/CTL - ALTN LAW (PROT LOST).*

Disconnect autopilot.  
 Turn off flight directors.  
 Disconnect autothrust.  
 Turn off all ADRs.  
 Fly the green area of the speed scale.

**Note:** 1. *When FLAPS 0, flight controls are in direct law. Refer to ABN-27 F/CTL - DIRECT LAW (PROT LOST).*  
 2. *Standby instruments may be unreliable.*  
 3. *The altitude displayed on the PFD is a GPS altitude.*  
 4. *Automatic cabin pressurization system is inoperative. Refer to ABN-21 CAB PR - SYS 1 + 2 FAULT.*  
 5. *Rudder travel limiter is inoperative. Refer to ABN-22-AUTOFLT AUTO FLT - RUD TRV LIM SYS.*  
 6. *If the BUSS does not react to longitudinal stick input when flying the green area of the speed scale, the flight crew must disregard the BUSS and adjust pitch attitude and thrust regarding flight phase and aircraft configuration to obtain and maintain target.*

Do not use speed brakes.  
 Maneuver with care.

● **When FLAPS 2:**  
 Extend landing gear by gravity. *Refer to ABN-32 L/G GRAVITY EXTENSION.*

Approach speed: fly the bug.  
 Apply necessary landing performance corrections.

**Figure 1 to paragraphs (g) and (h) of this AD – AFM procedure continued**

<b>AIRBUS</b>  <b>A318/A319/A320/A321</b> AIRPLANE FLIGHT MANUAL	<b>EMERGENCY PROCEDURES</b>  <b>NAVIGATION</b>
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**NAV - ADR 1+2+3 FAULT**

Ident.: **EMER-34-00007047.0006001 / 02 MAR 17** **APPROVED**  
 Criteria: ((SA and ((154033 or 35871) and 38298 and 151269)) or 320-200N)  
 Impacted by TDU: 00014228 NAV - ADR 1+2+3 FAULT

<sup>4</sup> Note: *Flight controls are in alternate law. Refer to ABN-27 F/CTL - ALTN LAW (PROT LOST).*

Disconnect autopilot.  
 Turn off flight directors.  
 Disconnect autothrust.  
 Turn on probe and window heat.  
 Turn off all ADRs.  
 Fly the green area of the speed scale.

Note: 1. *When FLAPS 0, flight controls are in direct law. Refer to ABN-27 F/CTL - DIRECT LAW (PROT LOST).*  
 2. *Standby instruments may be unreliable.*  
 3. *The altitude displayed on the PFD is a GPS altitude.*  
 4. *Automatic cabin pressurization system is inoperative. Refer to ABN-21 CAB PR - SYS 1 + 2 FAULT.*  
 5. *Rudder travel limiter is inoperative. Refer to ABN-22-AUTOFLT AUTO FLT - RUD TRV LIM SYS.*  
 6. *If the BUSS does not react to longitudinal stick input when flying the green area of the speed scale, the flight crew must disregard the BUSS and adjust pitch attitude and thrust regarding flight phase and aircraft configuration to obtain and maintain target.*

Do not use speed brakes.  
 Maneuver with care.

● **When FLAPS 2:**  
 Extend landing gear by gravity. *Refer to ABN-32 L/G GRAVITY EXTENSION.*

Approach speed: fly the bug.  
 Apply necessary landing performance corrections.

**BILLING CODE 4910-13-C****(h) Airplanes Not Affected by Paragraph (g) of This AD**

Airplanes operated with an AFM having the NAV—ADR 1+2+3 FAULT procedure identical to the procedure specified in figure 1 to paragraphs (g) and (h) of this AD, with an approval date on or after March 2, 2017, are compliant with the requirements of this AD, provided that the procedure specified in

figure 1 to paragraphs (g) and (h) of this AD is not removed from the AFM.

**(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 (k)(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's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

#### (j) Special Flight Permits

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

#### (k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017-0257R1, dated January 9, 2018, for related information. You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0024.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149.

#### (l) Material Incorporated by Reference

None.

Issued in Renton, Washington, on January 19, 2018.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2018-02364 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-476]

#### Schedules of Controlled Substances: Temporary Placement of Fentanyl-Related Substances in Schedule I

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Temporary amendment; temporary scheduling order.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this temporary scheduling order to schedule fentanyl-related substances that are not currently listed in any schedule of the Controlled Substances Act (CSA) and their isomers, esters, ethers, salts and salts of isomers, esters, and ethers in schedule I. This action is

based on a finding by the Administrator that the placement of these synthetic opioids in schedule I is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle fentanyl-related substances.

**DATES:** This temporary scheduling order is effective February 6, 2018, until February 6, 2020. If this order is extended or made permanent, the DEA will publish a document in the **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

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

#### SUPPLEMENTARY INFORMATION:

##### Legal Authority

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

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

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

## Background

### *The Nature of the Problem and DEA's Approach to Correct It*

It is well known that deaths associated with the abuse of substances structurally related to fentanyl<sup>2</sup> in the United States are on the rise and have already reached alarming levels. While a number of factors appear to be contributing to this public health crisis, chief among the causes is the sharp increase in recent years in the availability of illicitly produced, potent substances structurally related to fentanyl. Fentanyl is approximately 100 times more potent than morphine, and the substances structurally related to fentanyl that DEA is temporarily controlling also tend to be potent substances. Typically, these substances are manufactured outside the United States by clandestine manufacturers and then smuggled into the United States.

Fentanyl is often mixed with heroin and other substances (such as cocaine and methamphetamine) or used in counterfeit pharmaceutical prescription drugs. As a consequence, users who buy these substances on the illicit market are often unaware of the specific substance they are actually consuming and the associated risk. According to the Centers for Disease Control and Prevention (CDC), drug overdose deaths involving synthetic opioids (excluding methadone), such as fentanyl and tramadol, increased from 5,544 in 2014 to 9,580 in 2015. According to provisional data released in August 2017 by the CDC, National Center for Health Statistics, an estimated 55 Americans are dying *every day* from overdoses of synthetic opioids (excluding methadone).<sup>3</sup> Drug overdose deaths involving synthetic opioids excluding methadone for the 12-month period ending in January of 2017 (20,145 deaths) more than doubled from the corresponding data for the period ending in January of 2016 (9,945 deaths).

DEA has responded to this crisis by issuing eight temporary scheduling

<sup>2</sup> As explained further below, in this document, the term "fentanyl-related substances" is defined to include substances structurally related to fentanyl but which are not controlled under a separate scheduling action (listed under another Administration Controlled Substance Code Number). Thus, all "fentanyl-related substances" are structurally related to fentanyl, but some fentanyl-related substances are controlled under separate scheduling actions.

<sup>3</sup> Provisional synthetic opioid death overdose counts are based on CDC data available for analysis as of August 6, 2017, based on the 12-month reporting period ending January 2017. See [https://www.cdc.gov/nchs/data/health\\_policy/monthly-drug-overdose-death-estimates.pdf](https://www.cdc.gov/nchs/data/health_policy/monthly-drug-overdose-death-estimates.pdf) accessed 09-06-2017.

orders to control seventeen substances structurally related to fentanyl since 2015. However, this approach has not been completely effective in preventing the emergence of new substances structurally related to fentanyl. This is because when DEA temporarily controls a given substance structurally related to fentanyl, illicit manufacturers located abroad begin producing new such substances through other structural modifications. Those new nonscheduled substances then are smuggled into the United States, where they are distributed by traffickers in this country as a purportedly “noncontrolled” substance.<sup>4</sup> In this way, traffickers are effectively circumventing the temporary control mechanism that Congress established under 21 U.S.C. 811(h) to combat newly emerging dangerous drugs. Post mortem toxicology and medical examiner reports collected by the DEA show mortality connected to substances structurally related to fentanyl. Control of these substances is necessary to avoid an imminent hazard to the public safety.

Given the gravity of the ongoing fentanyl-related overdose crisis in the United States, protection of the public safety demands the utilization of 21 U.S.C. 811(h) in a manner that cannot be readily circumvented by drug traffickers. Specifically, in issuing this temporary scheduling order, DEA exercises its authority to avoid an imminent hazard to the public safety by placing fentanyl-related substances, as defined later in this document, in schedule I. As explained below, these fentanyl-related substances—including those that have not yet been introduced by traffickers into the U.S. market—present a significant risk to the public health and safety and need to be controlled under section 811(h) to avoid an imminent hazard to the public safety. It should also be noted that none of the substances that is being temporarily controlled has a currently accepted medical use in treatment in the United States; nor is any of the substances the subject of an exemption or approval under section 505 of the FD&C Act. In accordance with section 811(h), if any exemption or approval is in effect under section 505 of the FD&C Act with respect to a substance that falls within the definition of a fentanyl-related substance set forth in this document,

such substance is excluded from the temporary scheduling order.

#### *What Is Controlled Under This Temporary Scheduling Order*

On December 29, 2017, as required by 21 U.S.C. 811(h)(A), the DEA Administrator published a notice of intent to issue an order temporarily placing fentanyl-related substances in schedule I. 82 FR 61700. This temporary order places fentanyl-related substances in schedule I of the CSA for two years. DEA may extend the temporary scheduling for an additional year (a total of three years) if proceedings to permanently schedule the substances are pending. As defined in the notice of intent, as well as in this temporary order, fentanyl-related substances includes any substance not otherwise controlled in any schedule (*i.e.*, not included under any other Administration Controlled Substance Code Number) that is structurally related to fentanyl by one or more of the following modifications:

- (A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
- (B) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (C) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (D) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or
- (E) replacement of the *N*-propionyl group by another acyl group.

#### *How DEA Will Identify Individual Fentanyl-Related Substances That Fall Within This Temporary Scheduling Order*

As indicated, the temporary scheduling order includes all substances that fall within the above definition—even if such substances have not yet emerged on the illicit market in the United States. As a result, DEA cannot currently specify the chemical name of every potential substance that might fall under this new definition. However, because the definition of fentanyl-related substance describes a unique chemical structure, DEA has the authority to under 21 U.S.C. 811(h) to temporarily schedule this category of substance. In the future, if and when DEA identifies a specific new substance that falls under the definition, the agency will publish in the **Federal Register**, and on the agency website, the

chemical name of such substance. Thus, the text of the definition of fentanyl-related substance includes language indicating that it “includes, but is not limited to, the following substances.” It bears emphasis, however, that even in the absence of a future publication by DEA specifically identifying such a substance, the substance is controlled by virtue of this temporary scheduling order if it falls within the definition of fentanyl-related substance.

#### *Notification to the Secretary of Health and Human Services*

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance in schedule I of the CSA.<sup>5</sup> On November 6, 2017, the Administrator transmitted notice by letter to the Assistant Secretary for Health of HHS of his intent to place fentanyl-related substances, unless listed in another schedule, in schedule I on a temporary basis. The Assistant Secretary responded by letter dated November 29, 2017, and advised that based on a review by the Food and Drug Administration (FDA), they are not aware of any investigational new drug applications or approved new drug applications for fentanyl-related substances as defined above under section 505 of the FD&C Act, 21 U.S.C. 355, and that HHS has no objection to the temporary placement of these substances in schedule I of the CSA. As indicated, in accordance with section 811(h), fentanyl-related substances are defined under this temporary scheduling order to exclude any substance for which an exemption or approval is in effect under section 505 of the FD&C Act.

#### *Grounds for Temporary Scheduling Order*

To find that placing a substance temporarily in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance’s history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any,

<sup>5</sup> As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary’s scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

<sup>4</sup> Such trafficking is actually illegal as persons who do so can be prosecuted using the controlled substance analogue provisions of the CSA. 21 U.S.C. 802(32), 813. However, prosecution under the analogue provisions requires proof of additional elements not required for prosecuting trafficking in scheduled substances.

risk there is to the public health. 21 U.S.C. 811(h)(3). These factors include, but are not limited to, actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. *Id.* DEA has considered these factors for fentanyl-related substances, as defined above, and finds that the information is consistent across this class of substances. The DEA's three-factor analysis is available in its entirety under "Supporting and Related Material" of the public docket for this action at [www.regulations.gov](http://www.regulations.gov) under Docket Number DEA-476.

Substances that are included in the above-listed structural modifications and any combination of these structural modifications have been found to cause pharmacological effects that are similar to those of fentanyl. It therefore is reasonable to expect that all such substances, even if they have yet to appear on the illicit market in the United States, share the dangerous and potentially lethal properties that have caused the recent spike in fentanyl-related overdose deaths in the United States. While these substances may not yet have appeared in the domestic illicit market, with 21 U.S.C. 811(h), Congress empowered DEA to act proactively to "avoid an imminent hazard to the public safety" by scheduling dangerous substances on a temporary basis before they adversely impact the public safety. Thus, where, as here, DEA has evidence indicating that certain substances, due to their chemical structure and resulting pharmacological properties, as well as observed patterns of production and trafficking of closely related substances, will pose an imminent hazard to the public safety in the absence of control in schedule I (having considered the relevant factors under 21 U.S.C. 811(h)(3)), DEA may issue a temporary order under 21 U.S.C. 811(h). By temporarily placing these fentanyl-related substances in schedule I, it is DEA's intention to deter the production and introduction of these substances into the United States that traffickers might be considering—before such activity even begins—thereby avoiding an imminent hazard to the public safety. The alternative approach, of only temporarily controlling substances that have already appeared in the illicit U.S. market, is beneficial but has not eliminated the danger these newly created substances pose and is not as effective in preventing future deaths and serious injuries associated with these substances. In addition, by controlling fentanyl-related substances, the temporary scheduling order will facilitate the development of

international, national, and local prevention strategies that decrease morbidity and mortality from overdoses caused by or associated with fentanyl-related substances.

For these reasons, DEA has concluded that issuing a temporary scheduling order is necessary to avoid an imminent hazard to the public safety.

#### *Schedule I Classification*

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

As indicated, DEA finds that the fentanyl-related substances that are temporarily controlled by virtue of this order have a high potential for abuse. Information provided by the Assistant Secretary of HHS indicates that these fentanyl-related substances, as defined, have no currently accepted medical use in treatment in the United States and lack accepted safety for use under medical supervision.

#### **Conclusion**

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator issues this temporary scheduling order to place fentanyl-related substances in schedule I of the CSA. Because the Administrator hereby finds that it is necessary to temporarily place fentanyl-related substances in schedule I to avoid an imminent hazard to the public safety, this temporary order scheduling these substances is effective on the date the order is published in the **Federal Register**, and is in effect for a period of two years. DEA may extend the temporary scheduling for an additional year (a total of three years) if proceedings to permanently schedule the substances are pending. 21 U.S.C. 811(h)(1) and (2).

#### **Requirements for Handling**

Upon the effective date of this temporary order, fentanyl-related substances will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, fentanyl-related substances must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312, as of February 6, 2018. Any person who currently handles fentanyl-related substances, and is not registered with the DEA, must submit an application for registration and may not continue to handle fentanyl-related substances as of February 6, 2018, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after February 6, 2018 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle fentanyl-related substances must surrender all currently held quantities of fentanyl-related substances.

3. *Security.* Fentanyl-related substances are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93, as of February 6, 2018.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of fentanyl-related substances must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from February 6, 2018, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of fentanyl-related substances on the effective date of this order must take an inventory of all stocks of these substances on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled

substances (including fentanyl-related substances) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to fentanyl-related substances pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304, 1312, and 1317. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute fentanyl-related substances must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of February 6, 2018.

8. *Order Forms.* All DEA registrants who distribute fentanyl-related substances must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of February 6, 2018.

9. *Importation and Exportation.* All importation and exportation of fentanyl-related substances must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of February 6, 2018.

10. *Quota.* Only DEA registered manufacturers may manufacture fentanyl-related substances in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of February 6, 2018.

11. *Liability.* Any activity involving fentanyl-related substances not authorized by, or in violation of, the CSA, occurring as of February 6, 2018, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

#### Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such

order is to be issued and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary of HHS. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the notice-and-comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this temporary order. In the alternative, even if this order were subject to section 553 of the APA, the Administrator would find that there is good cause to forgo the notice-and-comment requirements of section 553, as any further delays in the process for issuance of temporary scheduling orders would be contrary to the public interest in view of the urgent need to control fentanyl-related substances to avoid an imminent hazard to the public safety.

Since this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), it is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

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

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

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the Congressional Review Act, “any

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

#### List of Subjects in 21 CFR Part 1308

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

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

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

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

■ 2. In § 1308.11, add paragraph (h)(30) to read as follows:

#### § 1308.11 Schedule I.

\* \* \* \* \*

(h) \* \* \*

(30) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers .....

9850

(i) Fentanyl-related substance means any substance not otherwise listed under another Administration

Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the

Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally



related to fentanyl by one or more of the following modifications:

(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;

(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(E) Replacement of the *N*-propionyl group by another acyl group.

(ii) This definition includes, but is not limited to, the following substances:

(A) [Reserved]

(B) [Reserved]

Dated: February 1, 2018.

**Robert W. Patterson,**  
*Acting Administrator.*

[FR Doc. 2018-02319 Filed 2-5-18; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[189A2100DD/AAKC001030/  
A0A501010.999900253G]

**25 CFR Parts 140, 141, 211, 213, 225,  
226, 227, 243, and 249**

**RIN 1076-AF40**

### Civil Penalties Inflation Adjustments; Annual Adjustments

**AGENCY:** Bureau of Indian Affairs,  
Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule provides for annual adjustments to the level of civil monetary penalties contained in Bureau of Indian Affairs (Bureau) regulations to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance.

**DATES:** This rule is effective on February 6, 2018.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Appel, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs; telephone (202) 273-4680, [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov).

## SUPPLEMENTARY INFORMATION:

I. Background

II. Calculation of Annual Adjustments

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)

B. Regulatory Flexibility Act

C. Small Business Regulatory Enforcement Fairness Act

D. Unfunded Mandates Reform Act

E. Takings (E.O. 12630)

F. Federalism (E.O. 13132)

G. Civil Justice Reform (E.O. 12988)

H. Consultation With Indian Tribes (E.O. 13175)

I. Paperwork Reduction Act

J. National Environmental Policy Act

K. Effects on the Energy Supply (E.O. 13211)

L. Clarity of This Regulation

M. Administrative Procedure Act

### I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74) (“the Act”). The Act requires Federal agencies to adjust the level of civil monetary penalties with an initial “catch-up” adjustment through rulemaking and then make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

The Office of Management and Budget (OMB) issued guidance for Federal agencies on calculating the catch-up adjustment. See February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M-16-06). Under the guidance, the Department identified applicable civil monetary penalties and calculated the catch-up adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. The calculated catch-up adjustment is based on the percent change between the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October in the year of the previous adjustment (or in the year of

establishment, if no adjustment has been made) and the October 2015 CPI-U.

The Bureau issued an interim final rule providing for calculated catch-up adjustments on June 30, 2016 (81 FR 42478) with an effective date of August 1, 2016, and requesting comments post-promulgation. The Bureau issued a final rule affirming the catch-up adjustments set forth in the interim final rule on December 2, 2016 (81 FR 86953). The Bureau then issued a final rule making the next scheduled annual inflation adjustment for 2017 on January 23, 2017 (82 FR 7649).

### II. Calculation of 2018 Annual Adjustments

OMB recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act which agencies must complete by January 15, 2018. See December 15, 2017, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, Office of Management and Budget, re: *Implementation of the Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M-18-03). The guidance states that the cost-of-living adjustment multiplier for 2018, based on the Consumer Price Index (CPI-U) for the month of October 2017, not seasonally adjusted, is 1.02041. (The annual inflation adjustments are based on the percent change between the October CPI-U preceding the date of the adjustment, and the prior year's October CPI-U. For 2017, OMB explains, October 2017 CPI-U (246.663)/October 2016 CPI-U (241.729) = 1.02041.) The guidance instructs agencies to complete the 2018 annual adjustment by multiplying each applicable penalty by the multiplier, 1.02041, and rounding to the nearest dollar. Further, agencies should apply the multiplier to the most recent penalty amount that includes the initial catch-up adjustment required by the Act.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. This final rule adjusts the following civil monetary penalties contained in the Bureau's regulations for 2018 by multiplying 1.02041 (*i.e.*, the cost-of-living adjustment multiplier for 2018) by each penalty amount as updated by the adjustment made in 2017:

CFR citation	Description of penalty	Current penalty including catchup adjustment	Annual adjustment (multiplier)	Adjusted penalty for 2018
25 CFR 140.3 .....	Penalty for trading in Indian country without a license .....	\$1,270	1.02041	\$1,296
25 CFR 141.50 .....	Penalty for trading on Navajo, Hopi or Zuni reservations without a license.	1,270	1.02041	1,296
25 CFR 211.55 .....	Penalty for violation of leases of Tribal land for mineral development, violation of part 211, or failure to comply with a notice of noncompliance or cessation order.	1,527	1.02041	1,558
25 CFR 213.37 .....	Penalty for failure of lessee to comply with lease of restricted lands of members of the Five Civilized Tribes in Oklahoma for mining, operating regulations at part 213, or orders.	1,270	1.02041	1,296
25 CFR 225.37 .....	Penalty for violation of minerals agreement, regulations at part 225, other applicable laws or regulations, or failure to comply with a notice of noncompliance or cessation order.	1,617	1.02041	1,650
25 CFR 226.42 .....	Penalty for violation of lease of Osage reservation lands for oil and gas mining or regulations at part 226, or noncompliance with the Superintendent's order.	906	1.02041	924
25 CFR 226.43(a) .....	Penalty per day for failure to obtain permission to start operations	90	1.02041	92
25 CFR 226.43(b) .....	Penalty per day for failure to file records .....	90	1.02041	92
25 CFR 226.43(c) .....	Penalty for each well and tank battery for failure to mark wells and tank batteries.	90	1.02041	92
25 CFR 226.43(d) .....	Penalty each day after operations are commenced for failure to construct and maintain pits.	90	1.02041	92
25 CFR 226.43(e) .....	Penalty for failure to comply with requirements regarding valve or other approved controlling device.	181	1.02041	185
25 CFR 226.43(f) .....	Penalty for failure to notify Superintendent before drilling, re-drilling, deepening, plugging, or abandoning any well.	362	1.02041	369
25 CFR 226.43(g) .....	Penalty per day for failure to properly care for and dispose of deleterious fluids.	906	1.02041	924
25 CFR 226.43(h) .....	Penalty per day for failure to file plugging and other required reports.	90	1.02041	92
25 CFR 227.24 .....	Penalty for failure of lessee of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining to comply with lease provisions, operating regulations, regulations at part 227, or orders.	1,270	1.02041	1,296
25 CFR 243.8 .....	Penalty for non-Native transferees of live Alaskan reindeer who violates part 243, takes reindeer without a permit, or fails to abide by permit terms.	5,989	1.02041	6,111
25 CFR 249.6(b) .....	Penalty for fishing in violation of regulations at part 249 (Off-Reservation Treaty Fishing).	1,270	1.02041	1,296

Consistent with the Act, the adjusted penalty levels for 2018 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2018 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015 (the date of the Act). The Act does not, however, change previously assessed penalties that the Bureau is collecting or has collected. Nor does the Act change an agency's existing statutory authorities to adjust penalties.

### III. Procedural Requirements

#### A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

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

E.O. 13771 of January 30, 2017, directs Federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13771,

however, applies only to significant regulatory actions, as defined in Section 3(f) of E.O. 12866. OIRA has determined that agency regulations exclusively implementing the annual adjustment are not significant regulatory actions under E.O. 12866, provided they are consistent with OMB Memorandum M-18-03 (See OMB Memorandum M-18-03 at 3). Therefore, E.O. 13771 does not apply to this final rule.

#### B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule makes adjustments for inflation.

#### C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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

#### *D. Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

#### *E. Takings (E.O. 12630)*

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

#### *F. Federalism (E.O. 13132)*

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

#### *G. Civil Justice Reform (E.O. 12988)*

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### *H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)*

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has

no substantial direct effects on federally recognized Indian Tribes and that consultation under the Department's Tribal consultation policy is not required.

#### *I. Paperwork Reduction Act*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *J. National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

#### *K. Effects on the Energy Supply (E.O. 13211)*

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

#### *L. Clarity of This Regulation*

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find

unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### *M. Administrative Procedure Act*

The Act requires agencies to publish annual inflation adjustments by no later than January 15, 2018, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2018 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

Section 553(b) of the Administrative Procedure Act (APA) provides that, when an agency for good cause finds that “notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest,” the agency may issue a rule without providing notice and an opportunity for prior public comment. Under section 553(b), the Bureau finds that there is good cause to promulgate this rule without first providing for public comment. It would not be possible to meet the deadlines imposed by the Act if we were to first publish a proposed rule, allow the public sufficient time to submit comments, analyze the comments, and publish a final rule. Also, the Bureau is promulgating this final rule to implement the statutory directive in the Act, which requires agencies to publish a final rule and to update the civil penalty amounts by applying a specified formula. The Bureau has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is impracticable and unnecessary.

Furthermore, the Bureau finds under section 553(d)(3) of the APA that good cause exists to make this final rule effective immediately upon publication in the **Federal Register**. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the **Federal Register** by January 15, 2018,

notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels take effect immediately upon the effective date of the adjustment. The statutory deadline does not allow time to delay this rule's effective date beyond publication. Moreover, an effective date after January 15 would delay application of the new penalty levels, contrary to Congress's intent.

#### List of Subjects

##### 25 CFR Part 140

Business and industry, Indians, Penalties.

##### 25 CFR Part 141

Business and industry, Credit, Indians—business and finance, Penalties.

##### 25 CFR Part 211

Geothermal energy, Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

##### 25 CFR Part 213

Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

##### 25 CFR Part 225

Geothermal energy, Indians—lands, Mineral resources, Mines, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements, Surety bonds.

##### 25 CFR Part 226

Indians—lands.

##### 25 CFR Part 227

Indians—lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

##### 25 CFR Part 243

Indians, Livestock.

##### 25 CFR Part 249

Fishing, Indians.

For the reasons given in the preamble, the Department of the Interior amends 25 CFR Chapter I as follows:

#### PART 140—LICENSED INDIAN TRADERS

■ 1. The authority citation for part 140 continues to read as follows:

**Authority:** Sec. 5, 19 Stat. 200, sec. 1, 31 Stat. 1066 as amended; 25 U.S.C. 261, 262; 94 Stat. 544, 18 U.S.C. 437; 25 U.S.C. 2 and 9; 5 U.S.C. 301; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

#### § 140.3 [Amended]

■ 2. In § 140.3, remove “\$1,270” and add in its place “\$1,296”.

#### PART 141—BUSINESS PRACTICES ON THE NAVAJO, HOPI AND ZUNI RESERVATIONS

■ 3. The authority citation for part 141 continues to read as follows:

**Authority:** 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

#### § 141.50 [Amended]

■ 4. In § 141.50, remove “\$1,270” and add in its place “\$1,296”.

#### PART 211—LEASING OF TRIBAL LANDS FOR MINERAL DEVELOPMENT

■ 5. The authority citation for part 211 continues to read as follows:

**Authority:** Sec. 4, Act of May 11, 1938 (52 Stat. 347); Act of August 1, 1956 (70 Stat. 744); 25 U.S.C. 396a–g; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

#### § 211.55 [Amended]

■ 6. In § 211.55(a), remove “\$1,527” and add in its place “\$1,558”.

#### PART 213—LEASING OF RESTRICTED LANDS FOR MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

■ 7. The authority citation for part 213 continues to read as follows:

**Authority:** Sec. 2, 35 Stat. 312; sec. 18, 41 Stat. 426; sec. 1, 45 Stat. 495; sec. 1, 47 Stat. 777; 25 U.S.C. 356; and Sec. 701, Pub. L. 114–74, 129 Stat. 599. Interpret or apply secs. 3, 11, 35 Stat. 313, 316; sec. 8, 47 Stat. 779, unless otherwise noted.

#### § 213.37 [Amended]

■ 8. In § 213.37, remove “\$1,270” and add in its place “\$1,296”.

#### PART 225—OIL AND GAS, GEOTHERMAL AND SOLID MINERALS AGREEMENTS

■ 9. The authority citation for part 225 continues to read as follows:

**Authority:** 25 U.S.C. 2, 9, and 2101–2108; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

#### § 225.37 [Amended]

■ 10. In § 225.37(a), remove “\$1,617” and add in its place “\$1,650”.

#### PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

■ 11. The authority citation for part 226 continues to read as follows:

**Authority:** Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

#### § 226.42 [Amended]

■ 12. In § 226.42, remove “\$906” and add in its place “\$924”.

#### § 226.43 [Amended]

■ 13. In § 226.43:

- a. Remove “\$90” each time it appears and add in each place “\$92” wherever it appears in this section.
- b. In paragraph (e), remove “\$181” and add in its place “\$185”.
- c. In paragraph (f), remove “\$362” and add in its place “\$369”.
- d. In paragraph (g), remove “\$906” and add in its place “\$924”.

#### PART 227—LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

■ 14. The authority citation for part 227 continues to read as follows:

**Authority:** Sec. 1, 39 Stat. 519; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

#### § 227.24 [Amended]

■ 15. In § 227.24, remove “\$1,270” and add in its place “\$1,296”.

#### PART 243—REINDEER IN ALASKA

■ 16. The authority citation for part 243 continues to read as follows:

**Authority:** Sec. 12, 50 Stat. 902; 25 U.S.C. 500K; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

#### § 243.8 [Amended]

■ 17. In § 243.8(a) introductory text, remove “\$5,989” and add in its place “\$6,111”.

#### PART 249—OFF-RESERVATION TREATY FISHING

■ 18. The authority citation for part 249 continues to read as follows:

**Authority:** 25 U.S.C. 2, and 9; 5 U.S.C. 301; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

#### § 249.6 [Amended]

■ 19. In § 249.6(b), remove “\$1,270” and add in its place “\$1,296”.

Dated: January 24, 2018.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2018–02200 Filed 2–5–18; 8:45 am]

BILLING CODE 4337–15–P

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 286**

[DOD-2007-OS-0086; 0790-AI24]

**DoD Freedom of Information Act (FOIA) Program****AGENCY:** Department of Defense.**ACTION:** Final rule.

**SUMMARY:** This rule revises the Department of Defense (DoD) Freedom of Information Act (FOIA) regulation to implement the FOIA and incorporate the provisions of the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016. This part promotes uniformity in the Department of Defense (DoD) FOIA Program. It takes precedence over all DoD Component issuances that supplement and implement the DoD FOIA Program. DoD will be removing individual component rulemakings in this area as subsequent actions to this rule.

**DATES:** This rule is effective on March 8, 2018.

**FOR FURTHER INFORMATION CONTACT:** James Hogan at 571-372-0462, or email [osd.mc-alex.odcmo.mbx.dod-foia-policy-office@mail.mil](mailto:osd.mc-alex.odcmo.mbx.dod-foia-policy-office@mail.mil).

**SUPPLEMENTARY INFORMATION:****Executive Summary**

This rule revises 32 CFR part 286 to implement section 552 of title 5, United States Code (U.S.C.) and incorporate the provisions of the OPEN Government Act of 2007 and the FOIA Improvement Act of 2016. This part promotes uniformity in the DoD FOIA Program across the entire Department.

The FOIA, 5 U.S.C. 552, requires agencies to “promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests [the FOIA] and establishing procedures and guidelines for determining when such fees should be waived or reduced.” Additionally, according to the FOIA, an agency may, in its regulation, designate those components that can receive FOIA requests, provide for the aggregation of certain requests, and provide for multitrack processing of requests. Finally, the FOIA requires agencies to

“promulgate regulations . . . providing for expedited processing of requests for records.”

This rule implements changes to conform to the requirements of the following amendments to the FOIA: The OPEN Government Act of 2007, Public Law 110-175 and the FOIA Improvement Act of 2016, Public Law 114-185. These changes include the roles of the FOIA Public Liaison in § 286.4, § 286.5, § 286.8, § 286.9, and § 286.12; the roles of the FOIA Requesters Service Centers in § 286.3, § 286.4, § 286.5, § 286.8, § 286.9, § 286.11, and § 286.12; the processing of FOIA requests, § 286.7; the timing of responses to FOIA requests, § 286.8; and the fees schedules, Subpart E.

**Comments and Responses**

On Thursday, January 5, 2017 (82 FR 1192-1206), the Department of Defense published an interim final rule titled “DoD Freedom of Information Act (FOIA) Program” for a 60-day public comment period. The public comment period ended on March 6, 2017. Two public comments were received. This section addresses the public comments.

*Comment:* From my reading of changes proposed to this regulation, I fully support this. I support this because it is making reporting and process of FOIA requests the same thought the entire Department of Defense. If this regulation was not passed it would make getting information much more complicated as some areas in the department could deny requests while others could over report. With the uniformity in this regulation, there would be less room for error in the department. Overall this should be implemented as soon as possible because the United States can't afford to under or over report our defense actions.

*Response:* The Department of Defense appreciates this commenter's support for our regulation.

*Comment:* The “FOIA” provides access to the inner-workings of the government. The government, including the military represents “we the people.” It's important that we not create a different standard for the disclosure of information that serves the public interest. Even though the government can exercise its discretion as to what information to release, it's important

that there be a “uniform” standard across different agencies of the government. For this reason, I support this proposal.

*Response:* The Department of Defense appreciates this commenter's support for our regulation.

**Expected Cost Savings of This Rule**

The Department of Defense currently has 14 separate FOIA rules. With the finalization of this department-wide rule, DoD will revoke all component-level FOIA rules. This rulemaking will reduce costs to the public by consolidating the requirements for requests for access to DoD information.

FOIA 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 FOIA rule for each component and the time and preparation required to submit a request/appeal. DoD FOIA subject matter experts estimate that 40% of FOIA requests to DoD may involve consultation of the Code of Federal Regulations and the department's several FOIA regulations. DoD estimates the consolidation to one FOIA regulation will save those referring to the CFR for FOIA 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 FOIA requester. That rate is \$37.72/hour.

Through this consolidation, DoD expects to save the requester community at least \$384,080 annually, as reflected in the chart below using FY 2016 data (annualized costs over perpetuity at a 7 percent discount rate is –\$384,080; present value costs is –\$5,486,857). The cost savings anticipated by the repeal of the DoD Component rules are accounted for in this rulemaking. Individual repeal actions for the DoD Component rules will refer back to this rule.

Rule	Component	Number of 2016 requests		40% of FOIA requests		Time per request		Hourly wage of requester		Projected cost savings to public
285 .....	DoD .....	1,794	×	40%	×	30 minutes	×	\$37.72	=	–\$13,533.94
287 .....	DISA .....	590	×	40%	×	30 minutes	×	37.72	=	– 4,450.96
290 .....	DCAA .....	93	×	40%	×	30 minutes	×	37.72	=	– 701.59

Rule	Component	Number of 2016 requests		40% of FOIA requests		Time per request		Hourly wage of requester		Projected cost savings to public
291 .....	DTRA (DNA) .....	78	×	40%	×	30 minutes	×	37.72	=	– 588.43
292 .....	DIA .....	902	×	40%	×	30 minutes	×	37.72	=	– 6,804.69
293 .....	NGA (NIMA) .....	109	×	40%	×	30 minutes	×	37.72	=	– 822.30
295 .....	DoD IG .....	772	×	40%	×	30 minutes	×	37.72	=	– 5,823.97
296 .....	NRO .....	165	×	40%	×	30 minutes	×	37.72	=	– 1,244.76
298 .....	DSS (DIS) .....	310	×	40%	×	30 minutes	×	37.72	=	– 2,338.64
299 .....	NSA/CSS .....	1,881	×	40%	×	30 minutes	×	37.72	=	– 14,190.26
518 .....	Army .....	25,775	×	40%	×	30 minutes	×	37.72	=	– 194,446.60
701 .....	Navy .....	9,605	×	40%	×	30 minutes	×	37.72	=	– 72,460.12
806 .....	Air Force .....	4,918	×	40%	×	30 minutes	×	37.72	=	– 37,101.39
300 .....	DLA .....	3,920	×	40%	×	30 minutes	×	37.72	=	– 29,572.48
Total	.....	.....		.....		.....		.....		– 384,080.13

## Regulatory Procedures

*Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”*

Executive Orders 13563 and 12866 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 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 final rule is considered 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 rule.

*Public Law 104–4, “Unfunded Mandates Reform Act” (2 U.S.C. Ch. 25)*

This final rule is not subject to the Unfunded Mandates Reform Act 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 this final rule is not subject to the Regulatory Flexibility Act because it does not have a significant economic impact on a substantial number of small entities. The rule implements the procedures for processing FOIA requests within the

Department of Defense, which do not create such an impact.

*Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Ch. 35)*

This final rule 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 rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. This final rule will not have a substantial effect on state and local governments, or otherwise have federalism implications.

## List of Subjects in 32 CFR Part 286

Freedom of Information Act.

Accordingly, the interim rule published at 82 FR 1192–1206 on January 5, 2017, is adopted as final with the following changes:

## PART 286—[AMENDED]

- 1. The authority citation for part 286 continues to read as follows:

**Authority:** 5 U.S.C. 552.

### § 286.7 [Amended]

- 2. In § 286.7, amend paragraph (c) in the first sentence by removing the phrase “inform this DoD Component” and adding in its place “inform them”.

Dated: February 1, 2018.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2018–02302 Filed 2–5–18; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG–2018–0020]

RIN 1625–AA87

### Security Zone; Choptank River, Cambridge, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing certain waters of the Choptank River. This action is necessary to prevent waterside threats before, during, and after an event held at the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD, during February 7–9, 2018. This rule prohibits vessels and persons from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Maryland-National Capital Region or his designated representative.

**DATES:** This rule is effective from noon on February 7, 2018, through 1 p.m. on February 9, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0020 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 Mr. Ronald L. Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S.

Coast Guard; telephone 410-576-2674, email [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

COTP Captain of the Port  
CFR Code of Federal Regulations  
DHS Department of Homeland Security  
E.O. Executive order  
FR Federal Register  
NPRM Notice of proposed rulemaking  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a comment period for this rulemaking due to the short time period between event planners notifying the Coast Guard of the event and publication of this security zone. It is necessary for the Coast Guard to establish this security zone for this event to ensure the appropriate level of protection for high-ranking United States officials and the public. Delaying the rulemaking to allow for opportunity for comment would be contrary to the security zone’s intended objectives of protecting the high-ranking United States officials and the public, as it would introduce vulnerability to the safety and security of high-ranking United States officials and the general public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest for the same reasons discussed above for forgoing notice and comment.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Maryland-National Capital Region has determined that a security

zone is needed to protect VIPs (very important persons) and the public, mitigate potential terrorist acts, and enhance public and maritime safety and security in order to safeguard life, property, and the environment on or near the navigable waters near the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD.

##### IV. Discussion of the Rule

An event will be held at the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina in Cambridge, MD, during February 7–9, 2018. A gathering of high-ranking U.S. officials is expected to take place at this event at Cambridge, MD. This rule establishes a security zone from noon on February 7, 2018, through 1 p.m. on February 9, 2018. The security zone will include all navigable waters of the Choptank River, within 2,000 yards of the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina’s Breakwater Pavilion, in position latitude 38°33’54” N, longitude 076°02’47” W, located in Cambridge, MD. This location is entirely within the Area of Responsibility of the Captain of the Port Maryland-National Capital Region, as set forth at 33 CFR 3.25–15.

Entry into this security zone is prohibited, unless specifically authorized by the COTP Maryland-National Capital Region. Except for public vessels and vessels already at berth, mooring, or at anchor, this rule temporarily requires all vessels in the designated security zone as defined by this rule to immediately depart the security zone. Coast Guard personnel will be present to prevent the movement of unauthorized persons into the zone. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this rule. The Coast Guard will issue Broadcast Notices to Mariners to further publicize the security zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

##### V. Regulatory Analyses

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

###### A. Regulatory Planning and Review

E.O.s 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. E.O. 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action” under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the security zone. This security zone will impact the waters affected by this rule during an enforcement period of approximately two days. Due to the time of year, the amount of vessel traffic that will be prohibited from accessing the security zone is expected to be minimal. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly. Such notifications will be updated as necessary to keep the maritime community informed of the status of the security zone.

###### B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 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 E.O. 13132.

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 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 security zone that is 49 hours in duration and is necessary to provide security for high-ranking U.S. officials and the public. It is categorically excluded from further review under paragraph L60(a) of Figure 2-1 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

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

### List of Subjects in 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05-0020 to read as follows:

#### **§ 165.T05-0020 Security Zone; Choptank River, Cambridge, MD.**

(a) *Location.* The following area is a security zone: All navigable waters of the Choptank River, within 2,000 yards of the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina's Breakwater Pavilion, in position latitude 38°33'54" N, longitude 076°02'47" W, located in Cambridge, MD. Coordinates refer to datum NAD 1983.

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

*Captain of the Port* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the security zone described in paragraph (b) of this section.

*Public vessel* means a vessel that is owned or demise (bareboat) chartered by the government of the United States, by a state or local government, or by the government of a foreign country and that is not engaged in commercial service.

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

(1) Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port (COTP). Public vessels and vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone.

(2) Persons desiring to transit the area of the security zone must first obtain authorization from the COTP or designated representative. To request permission to transit the area, the COTP and or designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). If permission is granted, persons and vessels must comply with the instructions of the COTP or designated representative and proceed as directed while within the zone.

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

(d) *Enforcement period.* This section will be enforced from noon on February 7, 2018, through 1 p.m. on February 9, 2018.

Dated: January 31, 2018.

**Lonnie P. Harrison, Jr.**

*Captain, U.S. Coast Guard, Captain of the Port Sector Maryland-National Capital Region.*

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**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 328****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401****[EPA-HQ-OW-2017-0644; FRL-9974-20-OW]****RIN 2040-AF80****Definition of “Waters of the United States”—Addition of an Applicability Date to 2015 Clean Water Rule**

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, Department of Defense; and Environmental Protection Agency (“EPA”).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency and the Department of the Army (“the agencies”) are publishing a final rule adding an applicability date to the “Clean Water Rule: Definition of ‘Waters of the United States’” published June 29, 2015 (the “2015 Rule”) of February 6, 2020. On August 27, 2015, the U.S. District Court for the District of North Dakota enjoined the applicability of the 2015 Rule in the 13 States challenging the 2015 Rule in that court. On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court. On January 22, 2018, the Supreme Court held that the courts of appeals do not have original jurisdiction to review challenges to the 2015 Rule. With this final rule, the agencies intend to maintain the *status quo* by adding an applicability date to the 2015 Rule and thus providing continuity and regulatory certainty for regulated entities, the States and Tribes, and the public while the agencies continue to consider possible revisions to the 2015 Rule.

**DATES:** This rule is effective on February 6, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2017-0644. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly

available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna Downing, Office of Water (4504-T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566-2428; email address: [CWAotus@epa.gov](mailto:CWAotus@epa.gov); or Ms. Stacey Jensen, Regulatory Community of Practice (CECW-CO-R), U.S. Army Corps of Engineers, 441 G Street NW, Washington, DC 20314; telephone number: (202) 761-5903; email address: [USACE\\_Rule@usace.army.mil](mailto:USACE_Rule@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The Environmental Protection Agency (“EPA”) and the Department of the Army (“Army”) (together “the agencies”) are publishing a final rule adding an applicability date to the “Clean Water Rule: Definition of ‘Waters of the United States’” (the “2015 Rule”) of February 6, 2020. The effective date of the 2015 Rule was August 28, 2015. On July 27, 2017, the agencies published a proposed rule to initiate the first step in a comprehensive, two-step process intended to review and revise, as appropriate and consistent with law, the definition of “waters of the United States,” after a review initiated in light of Executive Order 13778, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017). The first step in the process (“Step One”) proposed to rescind the definition of “waters of the United States” promulgated by the agencies in 2015 in the *Code of Federal Regulations* and revert to the previous definition of “waters of the United States” in place before the 2015 Rule, which defines the scope of the waters covered by the Clean Water Act (“CWA”). In a second step (“Step Two”), the agencies intend to pursue a public notice-and-comment rulemaking in which the agencies would conduct a substantive re-evaluation of the definition of “waters of the United States.”

The agencies have been implementing the previous definition of “waters of the United States” in place before the 2015 Rule as a result of a decision issued by the U.S. Court of Appeals for the Sixth Circuit staying the 2015 Rule nationwide and a decision by the U.S. District Court for the District of North Dakota enjoining the 2015 Rule in 13 States. On January 22, 2018, the Supreme Court held that the courts of appeals do not have original jurisdiction to review challenges to the 2015 Rule. With this final rule adding an

applicability date to the 2015 Rule, the agencies intend to provide clarity and certainty about the definition of “waters of the United States” for an interim period while they continue to work on the two-step rulemaking process.

The addition of the applicability date to the 2015 Rule of February 6, 2020 under this final rule would provide that the scope of the CWA remains consistent nationwide and, for a defined, interim period, remains the same as it was prior to promulgation of the rule in 2015 and as it has been since the 2015 Rule was stayed nationwide on October 9, 2015. Furthermore, this rule is necessary in light of the Supreme Court’s decision that the courts of appeals do not have original jurisdiction to review challenges to the 2015 Rule and remand of the case with instructions to the Sixth Circuit to dismiss the petitions for review for lack of jurisdiction, which will directly impact the Sixth Circuit’s existing nationwide stay of the 2015 Rule. This final rule adding an applicability date to the 2015 Rule maintains the legal *status quo* and thus provides continuity and certainty for regulated entities, the States and Tribes, agency staff, and the public. Subject to further action by the agencies, until the applicability date of the 2015 Rule, the agencies will administer the regulations in place prior to the 2015 Rule, and will continue to interpret the statutory term “waters of the United States” to mean the waters covered by those regulations, as they are currently being implemented, consistent with Supreme Court decisions and practice, and as informed by applicable agency guidance documents.

State, tribal, and local governments have well-defined and longstanding relationships with the federal government in implementing CWA programs and these relationships are not altered by this final rule. This final rule does not establish any new regulatory requirements. Rather, this rule adds an applicability date to the 2015 Rule and, as a result, leaves in place the current legal *status quo* nationwide while the agencies continue to engage in substantive rulemaking to reconsider the definition of “waters of the United States.”

## **I. Background and Discussion of Addition of Applicability Date**

### **A. What This Final Rule Does**

In 2015, the agencies published the “Clean Water Rule: Definition of ‘Waters of the United States’” (80 FR 37054, June 29, 2015). The 2015 Rule had an effective date of August 28, 2015. On August 27, 2015, the U.S. District Court

for the District of North Dakota enjoined the applicability of the 2015 Rule in the 13 States challenging the 2015 Rule in that court, and on October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court. On November 22, 2017, the agencies proposed to add an applicability date of two years from the date of final action on the proposal. The effective date of the 2015 Rule was established by a document published by the agencies in the **Federal Register** (80 FR 37054, June 29, 2015). The *Code of Federal Regulations* text does not include an applicability date; therefore, after consideration of public comment, the agencies are amending the text of the *Code of Federal Regulations* to add an applicability date. Subject to further action by the agencies, until the applicability date of the 2015 Rule, the agencies will administer the regulations in place prior to the 2015 Rule, and will continue to interpret the statutory term “waters of the United States” to mean the waters covered by those regulations, as they are currently being implemented, consistent with Supreme Court decisions and practice, and as informed by applicable agency guidance documents, as the agencies have been operating pursuant to the Sixth Circuit’s October 9, 2015, order. Thus, this final rule allows the current legal *status quo* to remain in place nationwide.

#### B. History and the Purpose of This Rulemaking

Congress enacted the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500, 86 Stat. 816, as amended, Pub. L. 95–217, 91 Stat. 1566, 33 U.S.C. 1251 *et seq.* (“Clean Water Act” or “CWA” or “Act”) “to restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” Section 101(a). A primary tool in achieving that purpose is a prohibition on the discharge of any pollutants, including dredged or fill material, to “navigable waters,” except in accordance with the Act. Section 301(a). The CWA provides that “[t]he term ‘navigable waters’ means the waters of the United States, including the territorial seas.” Section 502(7).

The regulations defining the “waters of the United States” currently applicable were established in large part in 1977 (42 FR 37122, July 19, 1977). While EPA administers most provisions in the CWA, the U.S. Army Corps of Engineers (“Corps”) administers the permitting program under section 404. During the 1980s, both of these agencies adopted substantially similar definitions of the term “waters of the United

States” (51 FR 41206, Nov. 13, 1986, amending 33 CFR 328.3; 53 FR 20764, June 6, 1988, amending 40 CFR 232.2).

In 2015, the agencies published a final rule defining “waters of the United States” (80 FR 37054). Thirty-one States and other parties sought judicial review in multiple actions in federal district courts and circuit courts of appeal, raising concerns about the scope and legal authority for the 2015 Rule. One district court issued an order granting a motion for preliminary injunction one day prior to the rule’s effective date that applies to the 13 plaintiff States in that case, *State of North Dakota et al. v. U.S. EPA*, No. 15–00059, slip op. at 1–2 (D.N.D. Aug. 27, 2015, as clarified by order issued on September 4, 2015), and several weeks later, the Sixth Circuit stayed the 2015 Rule nationwide to restore the “pre-Rule regime, pending judicial review.” *In re U.S. Dep’t of Def. & U.S. Envtl. Prot. Agency Final Rule: Clean Water Rule*, No. 15–3751 (lead), slip op. at 6. Consistent with the Sixth Circuit’s order, the agencies are applying the definition of “waters of the United States” that preceded the 2015 Rule nationwide. On January 13, 2017, the U.S. Supreme Court granted *certiorari* on the question of whether the court of appeals has original jurisdiction to review challenges to the 2015 Rule. The Sixth Circuit granted petitioners’ motion to hold in abeyance the briefing schedule in the litigation challenging the 2015 Rule pending a Supreme Court decision on the question of the court of appeals’ jurisdiction. On October 11, 2017, the Supreme Court held oral argument, and on January 22, 2018, the Supreme Court held that the courts of appeals lacked original jurisdiction to review challenges to the 2015 Rule.

Separate from today’s final rule, the agencies are engaged in a two-step process intended to review and revise, as appropriate and consistent with law, the definition of “waters of the United States.” This process began in response to an Executive Order issued on February 28, 2017 by the President entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” Section 1 of the Order states, “[i]t is in the national interest to ensure that the Nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.” The Executive Order directed the EPA and the Army to review the 2015 Rule for consistency with the policy outlined in section 1 of the Order, and to issue a

proposed rule rescinding or revising the 2015 Rule as appropriate and consistent with law (Section 2). The Executive Order also directed the agencies to “consider interpreting the term ‘navigable waters’ . . . in a manner consistent with” Justice Scalia’s plurality opinion in *Rapanos v. United States*, 547 U.S. 715 (2006) (Section 3).

On July 27, 2017, the agencies proposed the Step One rule to rescind the 2015 Rule and replace it with the regulatory text that governed prior to the promulgation of the 2015 Rule (82 FR 34899), as informed by applicable guidance documents and consistent with Supreme Court decisions and agency practice and which the agencies are currently implementing consistent with the court stay of the 2015 Rule. The agencies are reviewing and considering the large volume of public comments that they received on the Step One proposal.

#### C. Today’s Final Rule

This final rule adds an applicability date to the 2015 Rule such that it will not be implemented until February 6, 2020. Until the applicability date of the 2015 Rule and subject to further action by the agencies, the agencies will continue to implement nationwide the previous regulatory definition of “waters of the United States,” and will continue to interpret the statutory term “waters of the United States” to mean the waters covered by those regulations, as they are currently being implemented, consistent with Supreme Court decisions and practice, and as informed by applicable agency guidance documents (the 2003 and 2008 guidance documents<sup>1</sup>) as the agencies have been operating pursuant to the Sixth Circuit’s October 9, 2015, order and the North Dakota district court’s injunction. The previous regulatory definitions the agencies will continue to implement, as informed by the 2003 and 2008 guidance documents, are the EPA and the Corps separate regulations defining the statutory term “waters of the United States,” which are interpreted identically and have remained largely unchanged since 1977 (see 42 FR 37122, 37124, 37127 (July 19, 1977)). During the 1980s, both of these agencies

<sup>1</sup> Joint Memorandum providing clarifying guidance regarding the Supreme Court’s decision in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers*, 531 U.S. 159 (2001) (“SWANCC”), available at 68 FR 1991, 1995 (Jan. 15, 2003) and Joint Memorandum, “Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in *Rapanos v. United States & Carabell v. United States*,” (signed December 2, 2008), available at [https://www.epa.gov/sites/production/files/2016-02/documents/cwa\\_jurisdiction\\_following\\_rapanos120208.pdf](https://www.epa.gov/sites/production/files/2016-02/documents/cwa_jurisdiction_following_rapanos120208.pdf).

adopted definitions substantially similar to those in the 1977 regulations (51 FR 41206, Nov. 13, 1986, amending 33 CFR 328.3; 53 FR 20764, June 6, 1988, amending 40 CFR 232.2).<sup>2</sup> The scope of CWA jurisdiction is an issue of national importance, and therefore, the agencies will endeavor to provide for robust deliberations and public engagement as they re-evaluate the definition of “waters of the United States.” While engaging in such deliberations, however, the agencies recognize the need to provide clarity, certainty, and consistency nationwide. The pre-2015 Rule regulatory regime is applicable today as a result of the Sixth Circuit’s stay and the District of North Dakota’s preliminary injunction of the 2015 Rule. The stay and the preliminary injunction provided some level of certainty and stability for the public while issues regarding the 2015 Rule were reviewed by the courts and are now being re-evaluated by the agencies.

The Supreme Court’s decision that the courts of appeals do not have original jurisdiction to review challenges to the 2015 Rule and remand of the case with instructions to the Sixth Circuit to dismiss the petitions for review for lack of jurisdiction will directly impact the Sixth Circuit’s stay of the 2015 Rule. As noted previously, prior to the Sixth Circuit’s stay order, the U.S. District Court for the District of North Dakota preliminarily enjoined the 2015 Rule in the States that are parties in that litigation (North Dakota, Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, South Dakota, and Wyoming).<sup>3</sup> Therefore, when the Sixth Circuit’s nationwide stay expires, the 2015 Rule would be enjoined under the District of North Dakota’s order in States covering a large geographic area of the country, but the rule would be in effect in the rest of the country pending further judicial action or rulemaking by the agencies. In addition, many other district court cases on the 2015 Rule are pending, including several in which challengers have filed motions for preliminary injunctions. Litigation of these cases, which involve different parties in different courts, may lead to judicial orders affecting the applicability of the 2015 Rule. The agencies have concluded that all of these actions are likely to lead to uncertainty and confusion as to the

regulatory regime applicable, and to inconsistencies between the regulatory regimes applicable in different States, pending further rulemaking by the agencies. Having different regulatory regimes in effect throughout the country would be complicated and inefficient for both the public and the agencies.

This final rule establishes a framework for an interim period of time that avoids these inconsistencies, uncertainty, and confusion, pending further rulemaking action by the agencies. The rule ensures that, during an interim period, the scope of CWA jurisdiction will be administered nationwide exactly as it is now being administered by the agencies, and as it was administered prior to the promulgation of the 2015 Rule.

In addition, the agencies are finalizing an applicability date of February 6, 2020, in order to ensure the implementation of a consistent nationwide framework while the agencies continue work on the regulatory process for reconsidering the definition of “waters of the United States.” The agencies are undertaking an extensive outreach effort to gather information and recommendations from States and Tribes, regulated entities, and the public. The scope of the Clean Water Act is of great national interest, and there were more than 680,000 public comments submitted to the agencies on the Step One proposal and approximately 6,400 recommendations submitted in response to the agencies’ outreach efforts in 2017. The agencies continue to work as expeditiously as possible on the two-step rulemaking process. Addition of an applicability date to the 2015 Rule will result in additional clarity and predictability and will ensure the application of a consistent interpretation and definition of “waters of the United States” nationwide during the pendency of these rulemaking efforts.

The agencies recognize that this action may be confused with the Step One and Step Two rulemaking efforts. But to be clear, the agencies’ Step One proposed rule and any future Step Two actions are separate from today’s final rule. The comment period for the Step One proposed rule addressing the rescission of the 2015 Rule closed on September 27, 2017, and the agencies are considering those comments. In addition, the agencies are developing the Step Two proposal addressing potential substantive changes to the definition of the term “waters of the United States.” The agencies today are finalizing this targeted rule to ensure regulatory certainty and consistent implementation of the CWA nationwide

while the agencies work on the Step One and Step Two regulatory actions.

## II. General Information

### A. How can I get copies of this document and related information?

1. *Docket.* An official public docket for this action has been established under Docket ID No. EPA-HQ-OW-2017-0644. The official public docket consists of the documents specifically referenced in this action, and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the OW Docket, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The OW Docket telephone number is 202-566-2426. A reasonable fee will be charged for copies.

2. *Electronic Access.* You may access this **Federal Register** document electronically under the “**Federal Register**” listings at <http://www.regulations.gov>. An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may access EPA Dockets at <http://www.regulations.gov> to view public comments as they are submitted and posted, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Facility.

### B. What is the Agencies’ authority for taking this action?

The authority for this action is the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, including sections 301, 304, 311, 401, 402, 404, and 501.

### C. What are the economic impacts of this action?

The agencies have determined that there are no economic costs and unquantifiable benefits associated with this action. For purposes of considering potential economic impacts of this final rule, the agencies believe it is reasonable and appropriate in light of the ongoing, complex litigation over the 2015 Rule to use the legal *status quo* as a baseline. This final rule has the effect

<sup>2</sup> In 1993, the agencies added an exclusion for prior converted cropland to the definition of “waters of the United States” (58 FR 45008, August 25, 1993).

<sup>3</sup> The agencies note that Iowa’s motion to intervene in the case was granted after issuance of the preliminary injunction.

of providing the public with regulatory certainty while the agencies pursue a substantive rulemaking process. This final rule eliminates a source of uncertainty for the regulated community as they consider investments. While the agencies recognize that there are likely to be benefits associated with the regulatory certainty provided by this final rule, we are unable to quantify those benefits for purposes of considering potential economic impacts of this final rule. The agencies have prepared a memorandum to the record to provide the public with information about this conclusion with respect to the potential economic impacts associated with this action. A copy of the memorandum is available in the docket for this action.

#### D. What is the effective date?

This final rule is effective immediately upon publication. Section 553(d) of the Administrative Procedure Act (“APA”), 5 U.S.C. 553(d), provides that final rules shall not become effective until 30 days after publication in the **Federal Register**, “except . . . as otherwise provided by the agency for good cause,” among other exceptions. The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should “balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.” *Gavrilovic*, 551 F.2d at 1105.

This final rule will not require affected persons to take action or change behavior to come into compliance, as the rule does not establish any new regulatory requirements. Rather, this rule has the effect of maintaining the legal *status quo* that has been in place since the Sixth Circuit’s nationwide stay of the 2015 Rule and before the promulgation of the 2015 Rule. In addition, the agencies find that there is an immediate need for this rule to go into effect as soon as possible to provide regulatory certainty, as the Supreme Court has ruled that the Sixth Circuit did not have original jurisdiction over the 2015 Rule. See *Gavrilovic*, 551 F.2d at 1104 (recognizing “urgency of conditions” along with “demonstrated and unavoidable limitations of time” as legitimate grounds for a section

553(d)(3) good cause finding). As discussed herein, the Supreme Court’s decision will indirectly impact the existing regulatory framework and likely will result in inconsistent nationwide application of the scope of the CWA unless this final rule becomes effective upon publication. By effectuating this rule immediately, the agencies seek to avoid the nationwide inconsistencies, uncertainty, and confusion that would result from the application of different definitions of “waters of the United States” in different States at different times. Cf. *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1486 (9th Cir. 1992) (finding good cause where the 30-day delay would “throw[] the entire regulatory program out of kilter”). For these reasons, the agencies find that good cause exists under section 553(d)(3) to make this rule effective immediately upon publication.

### III. Public Comments

The agencies received approximately 4,600 public comments on the proposed rule. The agencies have carefully considered those comments.

Some commenters expressed confusion that the pre-publication version of the proposed rule was titled an amendment to the “effective date” of the 2015 Rule, while the **Federal Register** notice was titled an amendment to the “applicability date” of the 2015 Rule. Other commenters requested clarification of the use of the term “applicability date” in the rule. In accordance with the Document Drafting Handbook of the Office of the Federal Register, the term “effective date” is a term of art used exclusively to mean the date that the Office of Federal Register amends the *Code of Federal Regulations* by following the amendatory instructions in an agency’s final rule. “Document Drafting Handbook,” Office of the Federal Register (Revision 5, dated October 2, 2017) at 3–8. Thus the “effective date” of the 2015 Rule for purposes of the Office of the Federal Register was August 28, 2015, the date the Office of the Federal Register amended the *Code of Federal Regulations*. The agencies are not changing that “effective date.” However, with this rule, the agencies are making a targeted change to the text of the 2015 Rule in the *Code of Federal Regulations* by adding an applicability date, which establishes a new date on which the 2015 Rule would apply for purposes of implementation and enforcement of the Clean Water Act, subject to a future rulemaking action taken by the agencies. Those commenters further expressed confusion as to what the impact of the new applicability date would be, in

particular on existing permits and ongoing and new requests for jurisdictional determinations. If the new applicability date is reached without further final action by the agencies, the agencies explained in the preamble to the 2015 Rule how they will proceed with respect to existing and new permits and jurisdictional determinations when a changed definition of “waters of the United States” becomes effective, in terms of both the Office of the Federal Register and legal requirements (80 FR 37073–37074).

Commenters in support of this rulemaking to establish an applicability date asserted that the agencies have the discretion to postpone implementation of regulations that have gone into effect where the agencies are in the process of revising a rule, and that the agencies have discretion to establish an applicability date that differs from an effective date. Commenters opposed to the proposed rule stated that the agencies lack statutory authority to postpone the effective date of a rule after its effective date has passed. The agencies disagree that they lack statutory authority to add an applicability date to the 2015 Rule; the agencies’ statutory authority flows from their discretionary authority under the Clean Water Act to define “waters of the United States.” Nothing in the Clean Water Act requires the agencies to promulgate a regulatory definition of “waters of the United States,” and, further, nothing in the Clean Water Act requires that any such definition be in effect, or applicable, by a certain time after promulgation. Congress is very clear in the Clean Water Act when it requires EPA to promulgate a particular rule and when it requires a rule to be in effect by a specific time after promulgation. For example, under Section 304(b) of the Act, EPA must promulgate and revise, if appropriate, effluent limitations guidelines. Once those regulations are promulgated, Section 301(b) of the Act requires compliance with those effluent limitations guidelines no later than three years after they are established. In contrast, here, the agencies could have promulgated the same rule in 2015 with an applicability date any number of years in the future. That the agencies chose not to exercise their authority to do so at that time does not divest the agencies of such authority now. Exercise of that authority must be reasonable under the APA, and here the agencies have explained that it is reasonable to change the applicability date of a rule that is currently stayed nationwide by

court order, and that was in effect for a short time and only in part of the country.

Some commenters stated that the agencies lack authority under Section 705 of the Administrative Procedure Act, which provides that when an agency finds that justice requires, it may postpone the effective date of an action pending judicial review. The agencies are not utilizing Section 705 in this final rule. For purposes of this final rule, the agencies decided to use their rulemaking authority to provide the public with notice and opportunity to comment through the normal rulemaking process, if on a somewhat shortened timeframe.

Adding an applicability date does not upset the ongoing implementation of the Clean Water Act and the programs governed by the definition of “waters of the United States” because those programs will continue to be implemented as they have been under the nationwide stay and before the promulgation of the 2015 Rule—indeed as they have been for more than a decade since the *Rapanos* decision. Further, the agencies have reasonably exercised their authority by promulgating a specific end date, rather than an open-ended suspension of the 2015 Rule.

Commenters in support of the addition of an applicability date noted that the rule will help maintain the status quo and thus provide continuity and regulatory certainty throughout the litigation over the 2015 Rule and the agencies’ subsequent rulemaking. One commenter asserted that such clarity would be needed to make investment decisions regarding infrastructure and energy projects. Commenters also stated the view that the extension would preserve the *status quo* and eliminate inconsistencies in the regulatory framework. For example, one commenter suggested that this rule will allow “[f]armers, ranchers, and foresters” to “operate on a level playing field” by removing the potential for the same activities in different States to be subject to different rules. Several commenters representing industry and the regulated community also noted that the rulemaking process could take “years” and indicated that adding an applicability date to the 2015 Rule would reduce uncertainty.

Commenters opposed to the rule asserted that delaying the 2015 Rule will increase regulatory uncertainty because the pre-2015 regulatory regime was confusing and required case-by-case jurisdictional determinations. Further, commenters stated that the agencies cannot “suspend” a rule on the basis

that it may be stayed in some parts of the country but not others, or because the agencies may revise the rule. After consideration of these comments, the agencies disagree that the final rule will increase regulatory uncertainty and have concluded that the final rule will increase regulatory certainty. First, the 2015 Rule noted the extensive experience of the agencies in making jurisdictional determinations. Since the *Rapanos* decision, the agencies, most often the U.S. Army Corps of Engineers, have made more than 400,000 CWA jurisdictional determinations (80 FR 37065). This experience, and the agencies’ interpretation and implementation of the scope of “waters of the United States” for more than a decade since the *Rapanos* decision, provides the certainty that the Sixth Circuit sought when it stayed the rule in order to maintain the *status quo*. Further, in determining whether the agencies have reasonably concluded that this rule will provide regulatory certainty across the nation, the proper comparison is not to a regulatory regime that never existed—nationwide implementation of the 2015 Rule—but rather to the uncertainty that the agencies have identified as a reasonable concern: Different definitions of “waters of the United States” enjoined or stayed in various judicial districts, States, or groups of States such that the scope of the Clean Water Act varies depending upon where a discharge may occur. The final rule is designed to address that uncertainty by maintaining the *status quo* for both the public and the State and federal agencies which implement the Clean Water Act. Further, this final rule provides additional certainty because it maintains the *status quo* for a set period of time, rather than an uncertain one based on the actions by parties and judges in various cases.

Commenters also claimed that this rule establishing an applicability date would result in a regulatory gap because the prior regulatory regime was repealed in 2015 and the new regulatory regime would not apply for another two years. Upon consideration of these comments, the agencies have concluded that there will not be a regulatory gap. As a threshold matter, the text of the rule that was modified by the 2015 Rule is still being applied by the agencies today. The 2015 Rule never went into effect in Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, North Dakota, Nebraska, New Mexico, Nevada, South Dakota, and Wyoming, and was only briefly in effect in the remainder of the country until the Sixth Circuit issued its nationwide stay. That order

stayed implementation of the 2015 Rule. Furthermore, the agencies clearly explained in the preamble to the proposed rule that, until the new applicability date or a subsequent rulemaking action by the agencies, the agencies will continue to implement the prior regulatory definitions, informed by applicable agency guidance documents and consistent with Supreme Court decisions and longstanding agency practice, as the agencies have been operating pursuant to the Sixth Circuit’s October 9, 2015 stay order.

Additionally, the statutory regime remains in place and, until the new applicability date or a subsequent rulemaking action by the agencies, the agencies will continue to interpret the statutory provision “[t]he term ‘navigable waters’ means the waters of the United States, including the territorial seas,” CWA Section 502(7), to mean the waters identified by the prior regulatory definitions, informed by applicable agency guidance documents and consistent with Supreme Court decisions and agency practice. Therefore, during this interim time period the agencies will continue to interpret and implement the Clean Water Act as they have been, informed by pre-2015 Rule definitions and applicable agency guidance documents, and consistent with Supreme Court decisions and longstanding agency practice. The hundreds of thousands of jurisdictional determinations issued primarily by the Corps and the enforcement actions taken by the agencies provide further interpretations of the geographic scope of the Clean Water Act and further basis for the agencies’ conclusion that the addition of an applicability date is a reasonable means of maintaining the *status quo*. The agencies’ longstanding interpretation and implementation of the Clean Water Act since *Rapanos* means that there will not be a gap, nor will it be unclear to the public or the regulated community as to how the agencies intend to continue to implement the Act.

Commenters opposed to the proposed rule stated that postponing the effective date of a rule is tantamount to repeal, and therefore, must proceed through proper rulemaking procedures, including examining the scientific basis of the 2015 Rule and the alternatives, costs and benefits of the delay. Therefore, they claim that the agencies have failed to address certain issues, including: the scientific record supporting the 2015 Rule; the inadequacies of the pre-existing regulatory regime that the 2015 Rule discussed, including the confusion and

case-by-case litigation resulting from *SWANCC* and *Rapanos*; and why a desire for certainty outweighs the CWA's objectives. Addition of a new applicability date to a rule is not tantamount to a repeal of a rule. Repeal would mean the text of the regulation would no longer exist in the *Code of Federal Regulations*, and that is not what this final rule does; instead, it adds text to the 2015 Rule. As the Supreme Court noted about the November 2017 proposed rule: "That proposed rule does not purport to rescind the WOTUS Rule; it simply delays the WOTUS Rule's effective date." *National Ass'n of Manufacturers v. Dep't of Defense, et al*, 16–299 (2018) at n.5. Because this final rule has been promulgated through proper rulemaking procedures and simply maintains the *status quo* for an interim period, and does not repeal or replace the 2015 Rule, the agencies are under no obligation to address the merits of the 2015 Rule because the addition of an applicability date to the 2015 Rule does not implicate the merits of that rule. In addition, the agencies believe that the certainty of continued implementation of the agencies' longstanding interpretation of the Clean Water Act for an interim period is not inconsistent with the Clean Water Act's objectives and is not the product of an improper balancing of applicable factors.

The agencies received a number of comments about the length of the comment period. Commenters claimed that a 21-day comment period was insufficient time to adequately respond to the notice of proposed rulemaking, in part because the comment period coincided with the Thanksgiving holiday. Several commenters noted that Executive Order 12866 suggests a 60-day comment period, while other commenters suggested a 30-day minimum. Additionally, some commenters contrasted the 21-day comment period with the 60-day comment period provided for the Step One proposed rule and the six-month comment period provided for the proposed 2015 Rule. The agencies also received requests to extend the comment period.

The APA does not specify a minimum number of days for accepting comment. Rather, agencies must provide the public with a "meaningful opportunity" to comment on a proposed rule. *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1101 (D.C. Cir. 2009). Though the length of the comment period is a factor in determining whether the public was afforded a "meaningful opportunity" to comment, courts have upheld comment periods of less than 30 days where, for

example, the agency was acting under exigent circumstances. *See, e.g., Omnipoint Corp. v. FCC*, 78 F.3d 620, 629–30 (D.C. Cir. 1996) (upholding 15-day comment period where there was "urgent necessity for rapid administrative action under the circumstances" and the public was not harmed).

Here, the agencies received more than 4,600 comments. Commenters provided a thoughtful analysis of issues relevant to the agencies' proposed rule, including the agencies' legal rationale and authority for adding an applicability date, the factors related to the economic analysis, and the timeframe for the delay. Although the agencies provided longer comment periods for the Step One proposed rule and the proposed 2015 Rule, a shorter comment period for this rule was warranted given the need to proceed expeditiously. Indeed, the Supreme Court issued a decision on the question of original jurisdiction over challenges to the 2015 Rule on January 22, 2018, demonstrating that there was an urgent need to establish a clear regulatory framework to avoid the possible inconsistencies, uncertainty, and confusion that could result from the effects of the Court's ruling. Further, the length of the comment period was appropriate for the scope of this rulemaking, which is a narrowly tailored action adding an applicability date to the 2015 Rule.

Several commenters suggested that the agencies have not approached this rulemaking with an open mind, thus violating the APA and the commenters' due process rights. These commenters also cited to specific examples of Administrator Pruitt's remarks and appearances, including the Administrator's involvement in litigation against the 2015 Rule, as potential evidence that the Administrator has an "unalterably closed mind" and should be disqualified from participating in this rulemaking. *See Ass'n of Nat'l Advertisers, Inc. v. FTC*, 627 F.2d 1151, 1154 (D.C. Cir. 1979).

To satisfy the APA's notice and comment requirements, agencies must provide a "meaningful opportunity" for comment and "remain sufficiently open minded." *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1101 (D.C. Cir. 2009). An agency demonstrates the requisite open mind where it engages in a thoughtful review and consideration of comments, as the agencies have done here. *See Mortgage Inv'rs Corp. v. Gober*, 220 F.3d 1375, 1378–79 (Fed. Cir. 2000). Further, an agency's failure to revise or change a rule in response to comments is not

indicative of a closed mind. *Advocates for Highway & Auto Safety v. Fed. Highway Admin.*, 28 F.3d 1288, 1292–93 (D.C. Cir. 1994).

Moreover, Administrator Pruitt is not disqualified from this rulemaking. An administrator is "presumed to be objective and 'capable of judging a particular controversy fairly on the basis of its own circumstances.'" *United Steelworkers of Am. v. Marshall*, 647 F.2d 1189, 1208 (D.C. Cir. 1980). This presumption is not overcome where an administrator has "taken a public position," "expressed strong views," or held "an underlying philosophy with respect to an issue." *Id.* Indeed, "[t]he legitimate functions of a policymaker . . . demand an interchange and discussion about important issues." 627 F.2d at 1168. For this reason, "discussion of policy or advocacy on a legal question . . . is not sufficient to disqualify an administrator" in the rulemaking context. *Id.* at 1171; *see also id.* at 1174 ("We would eviscerate the proper evolution of policymaking were we to disqualify every administrator who has opinions on the correct course of his agency's future action."). Here, neither Administrator Pruitt's statements nor his participation in earlier proceedings related to the 2015 Rule require his recusal. *See* 647 F.2d at 1208–09. Contrary to some commenters' suggestions, Administrator Pruitt has expressed support for broad public comment to help the agencies make an informed decision.

One commenter alleged that documents released pursuant to a Freedom of Information Act request suggest that the purpose of the proposed rule is to prevent implementation of and facilitate the repeal of the 2015 Rule due to a substantive disagreement with that rule. The commenter further asserts that the agencies' failure to solicit comment on the rule's "true" rationale violates the APA by depriving the public of an opportunity to comment on this issue. Other commenters suggested the purpose of this rule is to avoid judicial review of the 2015 Rule.

Consistent with the APA, agencies must provide sufficient information in a notice of proposed rulemaking such that the public has the opportunity to meaningfully comment on the basis of a proposed rule. *See Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 393–94 & n.67 (D.C. Cir. 1973). As discussed herein, the agencies' rationale for this rule is to provide for regulatory certainty and to maintain the legal *status quo* nationwide. By giving the public an opportunity to comment on this rationale, the agencies have satisfied this obligation under the APA.



See also *Ad Hoc Metals Coal. v. Whitman*, 227 F. Supp. 2d 134, 143 (D.D.C. 2002) (“Judicial review of agency action should be based on an agency’s stated justifications, not the predecisional process that led up to the final, articulated decision.”). While the agencies are indeed undertaking rulemaking that could rescind and replace the 2015 Rule, those separate rulemaking efforts do not change the scope and nature of this action, which is simply an effort to provide implementation certainty for a limited period of time.

With respect to the time period of this rule, the agencies proposed establishing an applicability date for the 2015 Rule of two years after a final rule and sought comment on whether the time period should be shorter or longer, and on whether adding the applicability date contributes to regulatory certainty. Relatively few commenters directly addressed whether the timeframe for extending the applicability date was the appropriate length of time.

Of those commenters opposed to the proposed addition of an applicability date, none directly addressed whether the proposed two-year timeframe was appropriate or proposed an alternate timeframe. A number of commenters opposed the extension generally, citing concerns that the delay would result in harm to the environment by not protecting certain categories of waters. One noted that “two years of compromised protection for our nation’s waters is not a ‘relatively short period of time,’” but did not suggest an alternative. Some commenters called the two-year period “arbitrary,” but did not suggest an alternative.

Of those commenters who supported the proposal to delay implementation of the 2015 Rule, most appeared to directly or indirectly support the proposed two-year timeframe. A number of commenters referred to the need for adequate time to complete rulemaking. One commenter noted that the two-year timeframe was “appropriately tailored to provide a reasonable length of time for the Agencies to undertake this rulemaking to define the geographic scope of WOTUS in a manner that is true to the Clean Water Act (“CWA”), Constitution, and Supreme Court precedent, and that shows proper deference to the States.” Another commenter noted that the two-year extension would provide sufficient time to “carefully and thoroughly” develop “workable, legally defensible regulations.” A commenter further noted that the extension would provide the time for both the agencies and the regulated community to devote their

limited resources to engage in the second step of the rulemaking process to develop a new definition of “waters of the United States.”

Two commenters supported the idea of a delayed applicability date but noted that two years might not be sufficient to fully complete the “regulatory process for reconsidering the definition of ‘waters of the United States.’” These two commenters recommended an applicability date delayed by three years. Another commenter also noted that two years would be insufficient and as a result recommended that the applicability date for the 2015 Rule be extended indefinitely.

The agencies prepared a memorandum to the record for the proposed rule to provide the public with information about the activities envisioned in support of a comprehensive rulemaking process. The agencies selected the two-year time period as a reasonable time period within which to finalize a rule with a new definition of “waters of the United States.” Indeed, one commenter noted, “The Memorandum for the Record details the tasks and timeline to develop a final rule and supporting documents, including critical stakeholder outreach. . . . The Proposal is narrowly tailored to this timeline.”

Based on the information in the memorandum to the record, as explained in the proposal, and as supported by most comments responding to direct questions about the appropriate timeframe, the agencies conclude that the two-year timeframe is reasonable.

Commenters also stated that the Administrator failed to undergo an ethics review in accordance with procedures set out in 5 CFR 2635.502 (“the impartiality rules”). EPA clarifies that the impartiality regulations in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, subpart E, set forth provisions to ensure that employees take appropriate steps to avoid a loss of impartiality in the performance of their official duties. To be clear, the regulation at 5 CFR 2635.502(a) applies primarily to particular matters involving specific parties. While the impartiality regulation may possibly apply to a broader category of particular matters, that occurs only in the most unusual circumstances. As set forth in a legal advisory from the Office of Government Ethics, “the impartiality rule generally focuses on particular matters involving specific parties. . . . [and] rulemaking would not, except in unusual circumstances covered under section 502(a)(2), raise an issue under section

502(a).” See Office of Government Ethics Legal Advisory, DO-06-029, “‘Particular Matter Involving Specific Parties,’ ‘Particular Matter,’ and ‘Matter,’” (Oct. 4, 2006), n. 10. With respect to the proposed rule, EPA notes that the impartiality rules do not apply at all because the proposed rulemaking is not even a “particular matter” within the meaning of the federal ethics rules. For purposes of the ethics rules, particular matters are focused on a discrete and identifiable class of persons such as a particular industry or profession, or involve specific parties, such as a contract or grant. In contrast, this rulemaking affects a large and diverse group of persons and applies across many sectors of the economy. While the rulemaking may be classified as a “matter,” it is not a particular matter. Since this rulemaking does not fall within the definition of a particular matter, the impartiality rules do not apply.

Commenters have stated that this rule is subject to the requirements of National Environmental Policy Act (“NEPA”). It is not; generally speaking, the Clean Water Act exempts actions of the EPA Administrator from NEPA obligations. 33 U.S.C. 1371(c)(1) (With two exceptions not relevant here, “no action of the [EPA] Administrator taken pursuant to [the CWA] shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of [NEPA].”). As the Senate Conference Report advised: “If the actions of the Administrator under [the CWA] were subject to the requirements of NEPA, administration of the Act would be greatly impeded.” S. Conf. Rep. No. 92-1236, as reprinted in 1972 U.S.C.A.N. 3776, 3827.

The statutory exemption applies here despite the fact that EPA is promulgating this rule jointly with the Army. Nothing in the CWA’s exemption from NEPA limits it to actions taken by EPA alone. See, e.g., *Murray Energy Corp. v. U.S. Dep’t of Def.*, 817 F.3d 261, 273 (6th Cir. 2016) (“That the Clean Water Rule was promulgated jointly by the EPA Administrator and the Secretary of the Army does not defeat the fact that it represents action, in substantial part, of the Administrator.”); see also *Municipality of Anchorage v. United States*, 980 F.2d 1320, 1328-29 (9th Cir. 1992) (holding that an action “does not cease to be ‘action of the Administrator’ merely because it was adopted and negotiated in conjunction with the Secretary of the Army and the Corps”). The *Municipality* court found that a Memorandum of Agreement between EPA and the Corps providing

guidance for administration of the section 404 permitting program was exempt from NEPA under section 1371(c). 980 F.2d at 1329. This rule adds an applicability date to a rule that concerns the jurisdictional scope of the entire Act, implicating the many CWA programs administered only by EPA (EPA shares its CWA authority with the Army only with respect to section 404, 33 U.S.C. 1344). EPA has the ultimate authority to determine the scope of CWA jurisdiction, see Administrative Authority to Construe section 404 of the Federal Water Pollution Control Act, 43 Opp. Att'y Gen. 197 (1979), and the rule is an "action of the Administrator." *In re Dep't of Def.*, 817 F.3d at 273.

Many tribal commenters objected to EPA and the Army not consulting with Tribes pursuant to Executive Order 13175 on this rulemaking. Several Tribes commented that the trust relationship between Tribes and EPA obligates EPA to conduct meaningful government-to-government consultation with Tribes on EPA actions that will directly affect Tribes, and EPA did not do so for this proposed action. Some tribal commenters characterize "meaningful government-to-government" consultation as in-person meetings between federal and tribal government leaders, and not webinars or phone calls. Tribal commenters noted potential impacts of postponing the 2015 Rule's applicability date, including causing increased uncertainty for protections of culturally significant plants, animals, and waters.

Because this current rule does not change the legal *status quo* that has been in effect for many years (but rather reinforces it), it has no tribal implications as described in Executive Order 13175, and the Executive Order does not apply to this final action. As noted elsewhere, the agencies have engaged in, and continue to engage in, consultation with Tribes on the consideration of substantive revisions to the "waters of the United States" definition.

A few commenters stated that the agencies should have engaged in federalism consultation with the States pursuant to Executive Order 13132. Because this rule merely reinforces the legal framework that has been in place under the statute for many years, this action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As noted elsewhere, the agencies have engaged

in, and continue to engage in, consultation with States and local governments on consideration of substantive revisions to the "waters of the United States" definition.

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review; and, Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action under Executive Order 12866 so it was submitted to the Office of Management and Budget ("OMB") for review. Any changes made in response to OMB review have been documented in the docket.

In addition, the agencies prepared a memorandum to the record regarding analysis of the potential economic impacts associated with this action. The agencies have determined that there are no costs and unquantifiable benefits associated with this action. This action simply adds an applicability date to the 2015 Rule, which has been stayed nationwide, and the legal *status quo* continues to remain in place. A copy of the memorandum is available in the docket for this action.

##### B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action.

##### C. Paperwork Reduction Act ("PRA")

This rule does not involve any information collection activities subject to the PRA, 44 U.S.C. 3501 *et seq.*

##### D. Regulatory Flexibility Act ("RFA")

We certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action simply adds an applicability date to the 2015 Rule, which has been the subject of a nationwide stay, keeping the legal *status quo* in place. We have therefore concluded that this action will not have a significant impact on small entities. This analysis is contained in a memorandum to the record, which is available in the docket for this action.

##### E. Unfunded Mandates Reform Act ("UMRA")

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. The definition of "waters of the United States" applies broadly to all CWA programs.

##### F. Executive Order 13132: Federalism

This action does not have federalism implications, as this action is limited to adding an applicability date to the 2015 Rule. It therefore 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. This action simply adds an applicability date to the 2015 Rule, which has been stayed nationwide, and the legal *status quo* continues to remain in place. Thus, Executive Order 13132 does not apply to this action.

##### G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175. This action simply adds an applicability date to the 2015 Rule, which has been stayed nationwide, and the legal *status quo* continues to remain in place. Thus, Executive Order 13175 does not apply to this action.

##### H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The agencies interpret Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the agencies have reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

##### I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action simply adds an applicability date to the 2015 Rule, which has been



stayed nationwide, and the legal *status quo* continues to remain in place.

*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 agencies believe that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action simply adds an applicability date to the 2015 Rule, which has been stayed nationwide, and the legal *status quo* continues to remain in place. The agencies will consider the impact on minority and low-income populations consistent with this Executive Order in the context of possible substantive changes as part of any reconsideration of the 2015 Rule.

*L. Congressional Review Act ("CRA")*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. OMB has concluded that it is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects**

*33 CFR Part 328*

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Navigation, Water pollution control, Waterways.

*40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401*

Environmental protection, Water pollution control.

Dated: January 31, 2018.

**E. Scott Pruitt,**

*Administrator, Environmental Protection Agency.*

Dated: January 30, 2018.

**Ryan A. Fisher,**

*Acting Assistant Secretary of the Army (Civil Works).*

**Title 33—Navigation and Navigable Waters**

For the reasons set out in the preamble, title 33, chapter II of the *Code of Federal Regulations* is amended as follows:

**PART 328—DEFINITION OF WATERS OF THE UNITED STATES**

■ 1. The authority citation for part 328 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 2. Section 328.3 is amended by adding paragraph (e) to read as follows:

**§ 328.3 Definitions.**

\* \* \* \* \*

(e) *Applicability date.* Paragraphs (a) through (c) of this section are applicable beginning on February 6, 2020.

**Title 40—Protection of Environment**

For reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 110—DISCHARGE OF OIL**

■ 3. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*, 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR parts 1971–1975 Comp., p. 793.

■ 4. Section 110.1 is amended by adding paragraph (4) to the definition of "Navigable waters" to read as follows:

**§ 110.1 Definitions.**

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

**PART 112—OIL POLLUTION PREVENTION**

■ 5. The authority citation for part 112 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 6. Section 112.2 is amended by adding paragraph (4) to the definition of "Navigable waters" to read as follows:

**§ 112.2 Definitions.**

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

**PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES**

■ 7. The authority citation for part 116 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 8. Section 116.3 is amended by adding paragraph (4) to the definition of "Navigable waters" to read as follows:

**§ 116.3 Definitions.**

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

**PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES**

■ 9. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*, and Executive Order 11735, superseded by Executive Order 12777, 56 FR 54757.

■ 10. Section 117.1 is amended by adding paragraph (i)(4) to read as follows:

**§ 117.1 Definitions.**

\* \* \* \* \*

(i) \* \* \*

(4) *Applicability date.* This paragraph (i) is applicable beginning on February 6, 2020.

\* \* \* \* \*

**PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

■ 11. The authority citation for part 122 continues to read as follows:

**Authority:** The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 12. Section 122.2 is amended by adding paragraph (4) to the definition of "Waters of the United States" read as follows:

**§ 122.2 Definitions.**

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

**PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL**

■ 13. The authority citation for part 230 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 14. Section 230.3 is amended by adding paragraph (o)(4) to read as follows:

**§ 230.3 Definitions.**

\* \* \* \* \*

(o) \* \* \*

(4) *Applicability date.* This paragraph (o) is applicable beginning on February 6, 2020.

## PART 232—404 PROGRAM DEFINITIONS; EXEMPT ACTIVITIES NOT REQUIRING 404 PERMITS

■ 15. The authority citation for part 232 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 16. Section 232.2 is amended by adding paragraph (4) to the definition of “Waters of the United States” to read as follows:

### § 232.2 Definitions.

\* \* \* \* \*

*Waters of the United States* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

## PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 17. 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.

■ 18. Section 300.5 is amended by adding paragraph (4) to the definition of “Navigable waters” to read as follows:

### § 300.5 Definitions.

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

■ 19. In appendix E to part 300, section 1.5 Definitions is amended by adding paragraph (4) to the definition of “Navigable waters” to read as follows:

### Appendix E to Part 300—Oil Spill Response

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

## PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

■ 20. The authority citation for part 302 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 21. Section 302.3 is amended by adding paragraph (4) to the definition of “Navigable waters” to read as follows:

### § 302.3 Definitions.

\* \* \* \* \*

*Navigable waters* \* \* \*

(4) *Applicability date.* This definition is applicable beginning on February 6, 2020.

\* \* \* \* \*

## PART 401—GENERAL PROVISIONS

■ 22. The authority citation for part 401 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 23. Section 401.11 is amended by adding paragraph (1)(4) to read as follows:

### § 401.11 General definitions.

\* \* \* \* \*

(1) \* \* \*

(4) *Applicability date.* This paragraph (1) is applicable beginning on February 6, 2020.

\* \* \* \* \*

[FR Doc. 2018–02429 Filed 2–5–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA–HQ–SFUND–1992–0007; FRL–9973–60–Region 10]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Vancouver Water Station #4 Superfund Site

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 announces the deletion of the Vancouver Water Station #4 Superfund Site (Site) located in Vancouver, Washington, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NPL refers to the Site as the Vancouver Water Station #4 Contamination Superfund Site. The EPA and the State of Washington, through the Department of Ecology, have determined that all appropriate response actions under CERCLA, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This action is effective February 6, 2018.

**ADDRESSES:** *Docket:* EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1992–0007. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

USEPA Region 10 Records Center, 1200 Sixth Avenue, Suite 900, Seattle, Washington, Monday through Friday, except Federal holidays, between 8 a.m. and 5 p.m., Phone: 206–552–1200 or 800–424–4372.

City of Vancouver Water Resources Education Center, 4600 SE Columbia Way, Vancouver, Washington, Monday through Friday, except holidays, between 9:00 a.m. and 5:00 p.m. and Saturday between noon and 5:00 p.m., Phone: 360–487–7111.

### FOR FURTHER INFORMATION CONTACT:

Jeremy Jennings, Remedial Project Manager, U.S. Environmental Protection Agency, Region 10, ECL–122, 1200 Sixth Avenue, Suite 900, Seattle WA 98101, (206–553–2724) email [jennings.jeremy@epa.gov](mailto:jennings.jeremy@epa.gov).

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Vancouver Water Station #4, Vancouver, Washington. A Notice of Intent to Delete for this Site was published in the **Federal Register** (82 FR 44545–44548) on September 25, 2017.

The closing date for comments on the Notice of Intent to Delete was October 25, 2017. No public comments were received and EPA is proceeding with deletion.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 23, 2018.

Chris Hladick,

Regional Administrator—Region 10.

For reasons set out in the preamble, 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.

**Appendix B to Part 300—[Amended]**

- 2. Table 1 of Appendix B to part 300 is amended by removing the entry “WA”, “Vancouver Water Station #4 Contamination”, “Vancouver”.

[FR Doc. 2018–02351 Filed 2–5–18; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–1994–0009; FRL–9973–62–Region 10]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Vancouver Water Station #1 Superfund Site**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 announces the deletion of the Vancouver Water Station #1 Superfund Site (Site) located in Vancouver, Washington, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NPL refers to the Site as the Vancouver Water Station #1 Contamination Superfund Site. The EPA and the State of

Washington, through the Department of Ecology, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This action is effective February 6, 2018.

**ADDRESSES:** *Docket:* EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1994–0009. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories at: USEPA Region 10 Records Center, 1200 Sixth Avenue, Suite 900, Seattle, Washington, Monday through Friday, except Federal holidays, between 8:00 a.m. and 5:00 p.m., Phone: 206–552–1200 or 800–424–4372.

City of Vancouver Water Resources Education Center, 4600 SE Columbia Way, Vancouver, Washington, Monday through Friday, except holidays, between 9 a.m. and 5 p.m. and Saturday between noon and 5:00 p.m., Phone: 360–487–7111.

**FOR FURTHER INFORMATION CONTACT:**

Jeremy Jennings, Remedial Project Manager, U.S. Environmental Protection Agency, Region 10, ECL–122, 1200 Sixth Avenue, Suite 900, Seattle WA 98101, (206–553–2724) email [jennings.jeremy@epa.gov](mailto:jennings.jeremy@epa.gov).

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Vancouver Water Station #1 Superfund Site, Vancouver, Washington. A Notice of Intent to Delete for this Site was published in the **Federal Register** (82 FR 44548–44551) on September 25, 2017.

The closing date for comments on the Notice of Intent To Delete was October 25, 2017. One public comment was received. The comment was not a site-specific adverse comment and EPA is proceeding with deletion. A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND–1994–0009, on [www.regulations.gov](http://www.regulations.gov), and in the site information repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 23, 2018.

Chris Hladick,

Regional Administrator—Region 10.

For reasons set out in the preamble, 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.

**Appendix B to Part 300—[Amended]**

- 2. Table 1 of Appendix B to part 300 is amended by removing the entry “WA”, “Vancouver Water Station #1 Contamination”, “Vancouver”.

[FR Doc. 2018–02353 Filed 2–5–18; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 170619570–8056–02]

RIN 0648–BG92

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to the Number of Unrigged Hooks Carried On Board Bottom Longline Vessels**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement management measures described in an abbreviated framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This final rule removes the limit on the number of unrigged hooks that a commercial reef fish vessel with a bottom longline endorsement is allowed on board when using or carrying bottom longline gear in the Federal waters of the eastern Gulf. This final rule does not change the limit of 750 hooks that these vessels can have rigged for fishing at any given time. The purpose of this final rule is to reduce the regulatory and potential economic burden to bottom longline fishers.

**DATES:** This final rule is effective February 6, 2018.

**ADDRESSES:** Electronic copies of the abbreviated framework action, which includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from [www.regulations.gov](http://www.regulations.gov) or the SERO website at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/reef\\_fish/2017/Unrigged%20hooks/Unrigged\\_hooks\\_index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/Unrigged%20hooks/Unrigged_hooks_index.html).

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, NMFS SERO, telephone: 727-824-5305, email: [Kelli.ODonnell@noaa.gov](mailto:Kelli.ODonnell@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Gulf reef fish fishery includes the commercial bottom longline component and is managed under the FMP. The Council prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622.

On October 30, 2017, NMFS published a proposed rule for the framework action and requested public comment (82 FR 50104). The proposed rule and framework action outline the rationale for the action contained in this final rule. A summary of the management measure described in the framework amendment and implemented by this final rule is provided below.

#### Management Measure Contained in This Final Rule

This final rule removes the current limitation on the number of unrigged

hooks allowed per bottom longline vessel in the eastern Gulf exclusive economic zone (EEZ), while retaining the limit of 750 hooks that can be rigged for fishing.

The limitation on the number of unrigged hooks was put in place by Amendment 31 to the FMP, which contained several management measures to reduce sea turtle takes by the bottom longline component of the Gulf reef fish fishery (75 FR 21512; April 26, 2010). Since the implementation of Amendment 31, bottom longline endorsement holders using bottom longline gear in the eastern Gulf EEZ have reported increases in bottom longline hook losses due to shark bite-offs and through normal fishing effort. Therefore, vessel operators who use bottom longline gear in the eastern Gulf EEZ requested that the Council increase the number of total unrigged hooks per vessel, while still keeping in place the restriction of 750 hooks rigged to fish at any one time.

Observer data from 2010–2016 have shown the average amount of hooks lost per commercial bottom longline trip in the eastern Gulf EEZ is 300 hooks. Under the current total possession limit of 1,000 hooks, if more than 250 hooks are lost, a vessel either has to fish with fewer than 750 hooks, get additional hooks from other vessels to maintain the maximum number of hooks in the water, or return to port. Removing the restriction on the total number of hooks kept on board is expected to make trips more economical by allowing fishing with the maximum number of hooks to continue without having to return to port or request additional hooks from other vessels. In addition, maintaining the current limit of 750 hooks rigged for fishing preserves the reductions in sea turtle interactions since the implementation of Amendment 31.

#### Comments and Responses

A total of 20 comments were received on the proposed rule for the framework action. Eleven comments were in support of the proposed rule and five comments disagreed with the proposed rule. Comments supporting the rule stated that removing the 1,000 hooks per vessel restriction would allow vessels to carry adequate replacement hooks, possibly increase net benefits, and ease the burden on law enforcement. Other comments that were outside the scope of the proposed rule and, therefore, are not addressed here, stated that longline fishing should be prohibited in the Gulf or regulated more strictly. Specific comments opposed to the framework action and the proposed rule are grouped as appropriate and summarized

below, followed by NMFS' respective responses.

*Comment 1:* The hook restriction should not be removed. Instead the hook limit should be based on an estimate of hooks lost per day and the total trip length, or the total number of hooks should be increased to a higher defined level.

*Response:* NMFS disagrees that some form of the unrigged hook restriction should remain in place. It would be difficult to establish a hook limit based on an estimate of hooks lost per day and the total trip length because trip length can vary with every trip due to unexpected circumstances such as weather, vessel mechanics, or personnel issues. So although an estimate of hooks lost per day can be calculated from observer records, this average could not be accurately applied to each vessel at the beginning of each trip. The Council did consider two options for increasing the total number hooks allowed per vessel. However, the Council determined, and NMFS agrees, that those alternatives would increase the burden on law enforcement by requiring officers to count a greater number of unrigged hooks to verify compliance while providing no additional benefit to sea turtles because it is the number of hooks in the water that impacts the frequency of interactions.

*Comment 2:* Allowing an unlimited number of unrigged hooks will allow vessels to stay out longer and fish more, which could lead to overfishing and more interactions with protected species.

*Response:* NMFS disagrees that allowing an unlimited number of unrigged hooks on bottom longline vessels will lead to overfishing or more interactions with protected species. The management measures in place restrict the harvest of target species and preserve the reductions in sea turtle interactions since the implementation of Amendment 31. The species targeted by the eastern bottom longline component of the reef fish fishery in the Gulf EEZ are managed under the Individual Fishing Quota (IFQ) programs established in Amendments 26 and 29 to the FMP (71 FR 67447; November 22, 2006, and 74 FR 44732; August 31, 2009, respectively). Under the IFQ programs, harvest is strictly controlled and since the implementation of these programs landings of IFQ species have been constrained to the applicable annual commercial quotas. To limit interactions with protected sea turtles, bottom longline fishing in the eastern Gulf EEZ is restricted by an annual seasonal closure for the months of June

through August, and vessels are still limited to 750 hooks rigged for fishing.

### Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

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

This final rule is considered a deregulatory action under Executive Order 13771.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant adverse economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No public comments were made related to the economic implications and potential impacts on small businesses. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This rule is exempt from the requirement to delay the effectiveness of a final rule by 30 days after publication in the **Federal Register**, under 5 U.S.C. 553(d)(1), because the measure implemented by this final rule relieves a restriction on the regulated community. Specifically, this rule removes the restriction on the number of unrigged hooks that a commercial reef fish vessel with a bottom longline endorsement is allowed on board. This is expected to improve fishers' ability to maintain the maximum number of rigged hooks over the duration of a trip and to make trips more economical by allowing fishing with the maximum number of hooks to continue without having to return to port or request additional hooks from other vessels.

### List of Subjects in 50 CFR Part 622

Bottom longline gear, Fisheries, Fishing, Gulf of Mexico, Reef fish.

Dated: February 1, 2018.

**Samuel D. Rauch, III,**

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

For the reasons set out in the preamble, 50 CFR part 622 is to be amended as follows:

### PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.35, revise the first sentence of paragraph (b)(3) to read as follows:

#### § 622.35 Gear restricted areas.

\* \* \* \* \*

(b) \* \* \*

(3) Within the Gulf EEZ east of 85°30' W long., a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than 750 hooks rigged for fishing at any given time. \* \* \*

\* \* \* \* \*

[FR Doc. 2018-02314 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-22-P**

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 170818784-8080-02]

**RIN 0648-XF641**

#### Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; 2018-2020 Fishing Quotas

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2018 and projected status quo quotas for 2019 and 2020. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action also continues to suspend the minimum shell size for Atlantic surfclams for the 2018 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

**DATES:** This rule is effective March 8, 2018, through December 31, 2018.

**ADDRESSES:** Copies of the Environmental Assessment (EA), Supplemental Information Request (SIR), and other supporting documents for these specifications are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901.

**FOR FURTHER INFORMATION CONTACT:** Erin Wilkinson, Fishery Management Specialist, 301-427-8561.

**SUPPLEMENTARY INFORMATION:** In June 2017, the Council voted to recommend maintaining for 2018-2020 the status quo quota levels of 5.33 million bu (288 million L) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery. As further discussed below, NMFS received six comments on the proposed rule (82 FR 58164) published on December 11, 2017. Additional detail on the Council's recommendations and background on the surfclam and ocean quahog specifications is provided in the proposed rule and not repeated here.

#### 2018 and Projected 2019-2020 Specifications

Tables 1 and 2 show quotas for 2018 and projected quotas for the 2019-2020 Atlantic surfclam and ocean quahog fishery. NMFS will publish a notice in the **Federal Register** before the 2019 and 2020 fishing years notifying the public of the final quota for each year.

TABLE 1—2018 AND PROJECTED 2019–2020 ATLANTIC SURFLAM MEASURES

Year	Allowable biological catch (ABC) (mt)	Annual catch limit (ACL) (mt)	Annual catch target (ACT) (mt)	Commercial quota
<b>Atlantic surfclam</b>				
2017 (current) .....	44,469	44,469	29,364	3.4 million bushels (181 million L).
2018 .....	29,363	29,363	29,363	3.4 million bushels (181 million L).
2019–2020 (Projected) .....	29,363	29,363	29,363	3.4 million bushels (181 million L).

TABLE 2—2018 AND PROJECTED 2019–2020 OCEAN QUAHOG MEASURES

Year	ABC (mt)	ACL (mt)	ACT (mt)	Commercial quota
<b>Ocean quahog</b>				
2017 (current) .....	26,100	26,100	26,035	Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.33 million bu (288 million L).
2018 .....	44,695	44,695	25,924	Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.33 million bu (288 million L).
2019 (Projected) .....	46,146	46,146	25,924	Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.33 million bu (288 million L).
2020 (Projected) .....	45,783	45,783	25,924	Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.33 million bu (288 million L).

The Atlantic surfclam and ocean quahog quotas are specified in “industry” bushels of 1.88 ft<sup>3</sup> (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 ft<sup>3</sup> (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below the level that would result in overfishing for the entire stock.

#### Surfclam

The Atlantic surfclam stock is not overfished, and overfishing is not occurring. This rule maintains the status quo surfclam quota of 3.40 million bu (181 million L) for 2018 and projects that same quota for 2019 and 2020 (see table 1).

#### Ocean Quahog

The 2018 non-Maine quota for ocean quahog is the status quo quota of 5.33 million bu (288 million L).

The 2018 quota for Maine ocean quahogs is the status quo level of 100,000 Maine bu (3.52 million L). The quota represents the maximum allowable quota under the FMP. NMFS projects that these quota levels will be maintained for the 2019 and 2020 ocean quahog fisheries.

#### Surfclam Minimum Size

The minimum size limit has been suspended annually since 2005. Minimum size limit may not be suspended unless discard, catch, and biological sampling data indicate that 30 percent or less of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

Commercial surfclam data for 2017 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 10.4 percent of the overall commercial landings, to date, were composed of surfclams that were less than the 4.75-inch (120-mm) default minimum size. Based on the information available, the minimum size limit for Atlantic surfclams is suspended in the upcoming fishing year (January 1 through December 31, 2018). The Council will re-evaluate if the minimum size should be suspended for 2019 and 2020 prior to each of those fishing years. NMFS will notify the public if the minimum size is suspended for those fishing years.

#### Comments

We received six comments on the proposed rule; one from the general public and five from industry representatives. One comment from the public was not relevant to the rulemaking. All other comments are in support of the quotas and size suspension in the proposed rule.

Some comments received from industry expressed concern that an overfishing limit (OFL) for surfclams has not been specified. A reported OFL estimate for surfclams was considered highly uncertain, and deemed in the assessment report to be unreliable. Absolute estimates of fishing mortality rate or current stock size were not endorsed by collective scientists conducting the assessment or the assessment peer review panel, so no OFL was estimated.

Some comments from industry were also concerned that the lack of an OFL means that the Council was not able to develop an Allowable Biological Catch (ABC) for surfclam using its standard approach. The Council’s Scientific and Statistical Committee recommended an ABC of 29,363 mt, which was adopted by the Council. This ABC is based on a commercial quota of 26,218 mt and 12 percent incidental mortality. This catch level has been sustained by the stock historically, and has prevented

overfishing and kept the stock from becoming overfished.

This final rule maintains status quo quotas and the minimum surfclam size is suspended for 2018.

#### Changes From Proposed to Final Rule

There are no changes from the proposed to final rule.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This rule does not duplicate, overlap, or conflict with other Federal rules.

This rule is exempt from the requirements of E.O. 12866.

This rule is not expected to be an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 1, 2018.

**Samuel D. Rauch III,**

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

[FR Doc. 2018-02321 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 160920866-7167-02]

RIN 0648-XF905

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2018 Pacific cod total allowable catch apportioned to vessels using pot gear in the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), February 1, 2018, through 1200 hours, A.l.t., June 10, 2018.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2018 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Western Regulatory Area of the GOA is 1,092 metric tons (mt), as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017) and inseason adjustment (82 FR 60327, December 20, 2017).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region,

NMFS (Regional Administrator) has determined that the A season allowance of the 2018 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,082 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 31, 2018.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 1, 2018.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2018-02304 Filed 2-1-18; 4:15 pm]

**BILLING CODE 3510-22-P**

# Proposed Rules

Federal Register

Vol. 83, No. 25

Tuesday, February 6, 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 AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1051

[Docket No. AO-15-0071; AMS-DA-14-0095]

#### Proposed California Federal Milk Marketing Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; delay of rulemaking.

**SUMMARY:** This document announces a delay of the California Federal Milk Marketing Order (FMMO) rulemaking proceeding and the Agricultural Marketing Service's (AMS) intention to await the U.S. Supreme Court decision on a related legal matter prior to proceeding further with this rulemaking.

**DATES:** February 6, 2018.

**ADDRESSES:** Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, STOP 0231, Room 2969-S, 1400 Independence Ave SW, Washington, DC 20250-0231. The docket may be viewed at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Erin Taylor, Acting Director, (202) 720-7311, email address: [erin.taylor@ams.usda.gov](mailto:erin.taylor@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** On February 5, 2015, AMS received a proposal from three dairy cooperatives to call a hearing to promulgate a FMMO in California. Subsequently, AMS received additional proposals in April 2015. After publishing a notice of hearing on August 6, 2015 and proposing to add 7 CFR part 1051 (80 FR 47210), AMS commenced a hearing on September 22, 2015, presided over by Administrative Law Judge (ALJ) Jill S. Clifton. At the conclusion of the hearing, AMS reviewed the hearing record and briefs filed subsequent to the hearing. AMS published the

Recommended Decision and Opportunity to File Written Exceptions on February 14, 2017 (82 FR 10634).

On November 29, 2017, the Solicitor General of the United States submitted a brief to the U.S. Supreme Court in *Lucia v. Securities and Exchange Commission (Lucia)*, 868 F.3d 1021 (D.C. Cir. 2017) (en banc) (per curiam), cert. granted, No. 17-130 (U.S. January 12, 2018). The Government's position is that ALJs are "inferior officers" of the United States, subject to the Appointments Clause of Article II of the Constitution. The Solicitor General urged the Court to grant a writ of certiorari and resolve a circuit split concerning the Constitutional requirements for ALJ appointments. On January 12, 2018, the Court did so.

At all times material to the hearing for the prospective promulgation of a FMMO for California, ALJ Clifton presided over the proceedings on behalf of the United States Department of Agriculture (USDA). At the time of the hearing, USDA believed ALJ Clifton to be an employee of the Department and her appointment was completed in accordance with agency procedures, however, if the Court determines that ALJs are inferior officers of the United States rather than employees, then ALJ Clifton's original appointment as an ALJ would be brought into question. The Court is expected to hear oral arguments in *Lucia* during the current term and to render its decision on or before the end of its term on June 30, 2018.

As of November 29, 2017, the United States Department of Justice will no longer argue in the federal courts that ALJs are employees rather than inferior officers unless the Supreme Court determines otherwise. Consequently, it is prudent and appropriate for AMS to delay further proceedings in this FMMO rulemaking until the Court renders its decision in *Lucia*.

Prior documents in this proceeding:  
*Notice of Hearing:* Issued July 27, 2015; published August 6, 2015 (80 FR 47210);

*Notice to Reconvene Hearing:* Issued September 25, 2015; published September 30, 2015 (80 FR 58636);

*Recommended Decision and Opportunity to File Written Exceptions:* Issued February 6, 2017; published February 14, 2017 (82 FR 10634);

*Documents for Official Notice:* Issued August 8, 2017; published August 14, 2017 (82 FR 37827); and

*Information Collection—Producer Ballots:* Issued September 27, 2017; Published October 2, 2017 (82 FR 45795).

**Authority:** 7 U.S.C. 601-674.

Dated: February 1, 2018.

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2018-02386 Filed 2-5-18; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF COMMERCE

### Office of the Secretary

#### 15 CFR Part 4

[Docket No. 160801675-7593-01]

**RIN 0605-AA45**

#### Public Information, Freedom of Information Act and Privacy Act Regulations

**AGENCY:** Department of Commerce.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** This rulemaking proposes revisions to the Department of Commerce's (Department) regulations under the Freedom of Information Act (FOIA) and Privacy Act. The FOIA regulations are being revised to clarify, update and streamline the language of several procedural provisions, including methods for submitting FOIA requests and appeals and the time limits for filing an administrative appeal, and to incorporate certain changes brought about by the amendments to the FOIA under the FOIA Improvement Act of 2016. Additionally, the FOIA regulations are being updated to reflect developments in the case law.

**DATES:** To be considered, written comments must be submitted on or before March 8, 2018.

**ADDRESSES:** You may submit comments, identified by Regulatory Information Number (RIN) 0605-AA45, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Dr. Michael J. Toland, Deputy Chief Freedom of Information Act Officer and Department Privacy Act Officer, Office of Privacy and Open Government, 1401 Constitution Ave.



NW, Room 52010, Washington, DC 20230.

- *Email:* [mtoland@doc.gov](mailto:mtoland@doc.gov). Include the RIN 0605-AA45 in the subject line.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this rulemaking. Comments submitted by mail will be accepted as timely if they are postmarked on or before March 8, 2018. Electronic comments may be submitted via [www.regulations.gov](http://www.regulations.gov) prior to midnight Eastern Time on March 8, 2018. Comments submitted via email will be accepted as timely if they are date stamped on or before the comment date. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael J. Toland, Deputy Chief Freedom of Information Act Officer and Department Privacy Act Officer, Office of Privacy and Open Government, 1401 Constitution Ave. NW, Room 52010, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** This rulemaking proposes revisions to the Department’s regulations under the Freedom of Information Act to incorporate certain changes made to the FOIA, 5 U.S.C. 552, by the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (June 30, 2016). The FOIA Improvement Act of 2016 provides that agencies must allow a minimum of 90 days for requesters to file an administrative appeal. The Act also requires that agencies notify requesters of the availability of dispute resolution services at various times throughout the FOIA process. This rule updates the Department’s regulations in 15 CFR part 4, subpart A, to reflect those statutory changes.

Additionally, this rulemaking proposes to revise the Department’s regulations under the FOIA to clarify, update and streamline the language of several procedural provisions, including the methods for submitting FOIA requests and appeals, to reflect developments in the case law and to keep the regulations up to date with small administrative changes. Specific revisions include:

1. Section 4.1—General provisions. Two changes would be made to this section. First, paragraph (c) would be redesignated as (d). Second, a new paragraph (c) would be added that

discusses the roles of Department FOIA Requester Service Centers and FOIA Public Liaisons in assisting requesters with concerns they may have about their FOIA requests. The latter change, which includes notice about FOIA Public Liaisons, is specifically required by the FOIA Improvement Act of 2016.

2. Section 4.2—Public reading rooms. Three administrative changes would be made to this section. First, to be consistent with the notion of a FOIA Public Library as used by <https://www.foia.gov>, the sentence “These records may also be accessible at the FOIAonline website, <http://foiaonline.regulations.gov>” would be removed from paragraph (a). Second, the term “Electronic FOIA Library” would be revised to “Electronic FOIA Libraries” in paragraph (a). Third, paragraph (c)(1) would be deleted in its entirety because the language was outdated and no longer required, and the remaining paragraphs in paragraph (c) would be renumbered. Language also would be added to the new paragraph (1)(ii) for making records that have been requested three or more times electronically available to the public, to be consistent with the FOIA Improvement Act of 2016.

3. Section 4.3—Records under the FOIA. In paragraph (d), the General Records Schedule (GRS) number would be changed from 14 to 4.2, “Information Access and Protection Records,” to reflect GRS revisions required under OMB/NARA M–12–18, “Managing Government Records Directive.”

4. Section 4.4—Requirements for making requests. Two changes would be made to this section. First, paragraph (a) would be updated by changing “legible return address” to “valid return address.” This update would be made to clarify the Department’s address requirement for FOIA requests, as there is a mandatory field for a mailing address in the Department’s online FOIA tracking system. Second, to be consistent with the Department’s Privacy Regulations, 15 CFR 4.24, “Procedures for making requests for records,” paragraph (b) of this section would be modified to include language about making a request for records about an individual or oneself. In particular, a requester may submit either a notarized statement or a declaration made under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization to permit disclosure of the individual’s records to the requester. Finally, as part of customer outreach, information would be included in paragraph (c), such as where to find information about Department FOIA Requester Service

Centers and FOIA Public Liaisons, and how those services may help a requester with the Department’s FOIA process.

5. Section 4.5—Responsibility for responding to requests. Three changes would be made that help clarify the Department’s FOIA practices. First, to be consistent with the FOIA, a sentence would be added to the end of paragraph (a) of this section, which states that “a record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.” Second, under paragraph (b) of this section, as a practice, the Department or its components should typically either consult with or refer to another Department component records in which that component may have a substantial interest. This is similar to how consultations or referrals with other Federal agencies are handled. Third, language would be added at the end of the paragraph (c) of this section, which clarifies when a requester may or may not receive the name of a Federal agency to which records are referred. This change is being proposed because the standard referral procedure is not always appropriate, especially where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests.

6. Section 4.6—Time limits and expedited processing. Following requirements identified in the FOIA Improvement Act of 2016, a sentence would be added to paragraph (d)(1) of this section, which clarifies the roles of the Department’s FOIA Public Liaisons and FOIA Contacts, as well as the Office of Government Information Services (OGIS) in assisting requesters with modifying their requests should a component be unable to complete a request within statutory time limits. Two administrative changes also would be made. First, the importance of customer service is conveyed in paragraph (d)(2)(iii) of this section by adding that any consultation with another Federal agency “shall be conducted with all practicable speed.” Second, in paragraph (e)(1) of this section, the description of a complex request would be expanded to include consulting or referring a request to other agencies or for commercial confidential information to a third party. This language would be added to help the Department and its components understand, as well as to be transparent to requesters about circumstances whereby requests may be placed in the complex track.

7. Section 4.7—Responses to requests. Two sentences would be added to the end of paragraph (a) of this section, which provide additional guidance to the Department and its components related to the acknowledgment of FOIA requests. The first sentence clarifies when an acknowledgement must be sent to a requester. The second sentence explains that the acknowledgement email generated by the Department's online FOIA tracking system may suffice as the acknowledgement to requesters that the Department has received their FOIA requests.

Three sentences would be added to the end of paragraph (b) of this section to provide guidance and clarification to the Department and its components on interim responses to FOIA requests. First, interim responses may include records that have been released in full or withheld in part under one or more applicable FOIA exemptions set forth in 5 U.S.C. 552(b). Second, every effort will be made by the Department or its components to provide requesters, as part of an interim response, with an estimated date by which the overall request determination will be made. Third, a clarification is added to explicitly state that an interim response is not a request determination and it need not include appeals language.

Furthermore, paragraphs (c), (d), (e) of this section would be redesignated as (1), (2), and (3), respectively, under a newly titled paragraph (c) "Determination". Language would be added to the newly designated paragraph (2) clarifying that fee category status, fee estimates that the requester believes may be excessive, and denials of fee waivers are considered adverse determinations. Consistent with requirements outlined in the FOIA Improvement Act of 2016, a sentence would be added to the newly designated paragraph (3) that discusses the roles of the Department and relevant component FOIA Public Liaisons, as well as the OGIS in assisting requesters with concerns they may have about their FOIA requests.

8. Section 4.9—Business information. Administrative revisions would be made to this section to change the title of the section from "Business information" to "Confidential commercial information" and updating all references of "business" to "confidential commercial" throughout the section. The changes would be made to be consistent with Department terminology and definitions.

9. Section 4.10—Appeals from initial determination or untimely delays. In paragraphs (a)(1) and (a)(2) of this section, the Department would extend

the amount of time for requesters to file FOIA appeals from 30 days to 90 days, consistent with the requirements of the FOIA Improvement Act of 2016. Administrative changes to paragraph (b) of this section include: Renaming the "Assistant General Counsel for Litigation, Employment, and Oversight" to "Assistant General Counsel for Employment, Litigation, and Information" (AGC-ELI); updating the address for AGC-ELI from "14th and Constitution Avenue NW," to "1401 Constitution Avenue NW,"; and removing facsimile as a method of contacting AGC-ELI regarding FOIA appeals. In paragraph (c), the reference to "Assistant General Counsel for Litigation, Employment, and Oversight" would be changed to "AGC-ELI" and similarly "the General Counsel to the Inspector General" would be changed to "the Counsel to the Inspector General." The current paragraph (d) would be replaced with new language advising requesters that "If an appeal is granted, the notification letter may include documents to be released or the request may be referred back to the component for further action consistent with the determination on the appeal."

10. Section 4.11—Fees. Proposed changes made to this section include updating the reference to a fee waiver or reduction from paragraph (k) to (l) in paragraphs (a), (c), (l)(3)(ii), and (l)(5); updating the definition of direct costs and including a table for standard FOIA hourly processing fees in paragraph (b)(2); updating the definition of educational institution and verification requirements in paragraph (b)(4); updating the definition of representative of the news media, or news media requester, by removing the phrase "organized and operated to publish or broadcast new to the public" in paragraph (b)(6); updating paragraph (b)(7) by changing "business" to "commercial" to be consistent with changes made to section 4.9; updating the definition of search by deleting the "page-by-page or line-by-line" requirement for identification of information in paragraph (b)(8); updating paragraphs (c)(2) and (c)(3) by referencing the new "FOIA Hourly Processing Fees" table identified in paragraph (b)(2) of this section; updating paragraph (d)(6) by clarifying when search fees may or may not be charged to be consistent with requirements of the FOIA Improvement Act of 2016; updating paragraph (d)(7) by clarifying when search fees may or may not be charged to be consistent with requirements of the FOIA Improvement Act of 2016; and by

adding paragraph (d)(8), which clarifies when the Department and its components may be granted an additional ten working days for processing requests, as well as the parameters under which fee restrictions in paragraphs (d)(6) and (7) of this section do not apply.

Additional proposed updates include: A sentence would be added to paragraph (e)(1), which discusses the roles of Department FOIA Public Liaisons, Department FOIA contacts, and OGIS in assisting requesters with concerns they may have about their request fee estimate amounts, as specifically required by the FOIA Improvement Act of 2016; an administrative change would be made to paragraphs (e)(2) and (i)(4) whereby the word "while" is changed to "when"; a sentence would be added to the end of paragraph (j) to clarify the tolling period; and to be consistent with requirements of the FOIA Improvement Act of 2016, the last sentence of paragraph (l)(2)(iii) would be removed.

11. Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction or Amendment Under the Privacy Act. Proposed administrative changes to this section include updating the Economic Development Administration's (EDA) address, providing a web address for EDA Electronic FOIA Library, and updating the address of EDA's Philadelphia Regional Office.

*Public Participation:* The Department will not consider comments that do not comply with the instructions stated above. If you want to submit personally identifiable information (such as your name, address, *etc.*) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONALLY IDENTIFIABLE INFORMATION" in the first paragraph of your comment. You must also locate all the personally identifiable information you do not want posted online in the first paragraph of your comment and identify what information you want redacted. If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains confidential business information to the extent that it cannot

be effectively redacted, all or part of the comment may not be posted on <http://www.regulations.gov>. Personally identifiable information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

#### Classification

##### *Regulatory Flexibility Act*

The Chief Counsel for Regulation for the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would amend the Department's Privacy Act regulations regarding applicable exemptions to reflect new Department wide systems of records notices published since the last time the regulations were updated. These amendments are administrative in nature and will not impose a financial or regulatory impact on anyone, including small entities. The applicable exemptions apply to information collected to establish identity, accountability, and audit control of electronic or other digital certificates of assigned personnel who require access to Department of Commerce electronic and physical assets. The information collected is provided on a voluntary basis, with no cost incurred by individuals.

##### *Executive Order 12866*

It has been determined that this proposed rule is not significant for purposes of Executive Order 12866.

##### *Executive Order 13771*

This proposed rule is not an Executive Order 13771 regulatory action because it is not significant under Executive Order 12866.

##### *Paperwork Reduction Act*

This regulation does not contain a "collection of information" as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### List of Subjects in 15 CFR Part 4

Appeals, Freedom of Information Act, Information.

Dated: January 29, 2018.

**Michael J. Toland,**

*Department of Commerce, Deputy Chief FOIA Officer, Department Privacy Act Officer.*

For the reasons stated in the preamble, the Department of Commerce proposes to amend 15 CFR part 4 as follows:

#### **PART 4—[AMENDED]**

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

**Authority:** 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 41 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

#### **Subpart A—Freedom of Information Act**

■ 2. Amend § 4.1 by redesignating paragraph (c) as (d), and by adding a new paragraph (c) to read as follows:

##### **§ 4.1 General provisions.**

\* \* \* \* \*

(c) The Department has a FOIA Requester Service Center with at least one FOIA Public Liaison. Each Department component may have a FOIA Requester Service Center with at least one FOIA Public Liaison. FOIA Public Liaisons are responsible for: Working with requesters that have any concerns about the service received from a FOIA component, reducing delays in the processing of FOIA requests, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes. Contact information for the relevant component FOIA Requester Service Centers, FOIA Public Liaisons, and component FOIA offices and contacts is available at <http://www.osec.doc.gov/opog/contacts.html>.

\* \* \* \* \*

■ 3. Amend § 4.2 by revising paragraphs (a) and (c) to read as follows:

##### **§ 4.2 Public reading rooms.**

(a) Records that the FOIA requires to be made available for public inspection and copying are accessible electronically through the Department's "Electronic FOIA Library" on the Department's website, <http://www.doc.gov>, which includes links to websites for those components that maintain Electronic FOIA Libraries. Each component of the Department is responsible for determining which of its records are required to be made available, as well as identifying additional records of interest to the public that are appropriate for disclosure, and for making those records available either in its own Electronic

Library or in the Department's central Electronic FOIA Library. Components that maintain their own Electronic FOIA Libraries are designated as such in Appendix A to this part. Each component shall also maintain and make available electronically a current subject-matter index of the records made available electronically. Each component shall ensure that posted records and indices are updated regularly, at least quarterly.

\* \* \* \* \*

(c) The Department and its components shall maintain and make available electronically for public inspection:

(1) Copies of records that have been released and

(i) That the component that maintains them determines, because of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records by other requesters, or

(ii) That have been requested three or more times by different requesters;

(2) A general index of the records available for public inspection—for purposes of these regulations, a general index includes records available through a search capability on the Department or component's website, such as a person finder;

(3) Final opinions and orders, including concurring and dissenting opinions made in the adjudication of cases;

(4) Those statements of policy and interpretations that have been adopted by a component and are not published in the **Federal Register**; and

(5) Administrative staff manuals and instructions to staff that affect a member of the public.

■ 4. Amend § 4.3 by revising paragraph (d) to read as follows:

##### **§ 4.3 Records under the FOIA.**

\* \* \* \* \*

(d) Components shall preserve all correspondence pertaining to the requests they receive under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 4.2, Information Access and Protection Records. Components shall not dispose of records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

■ 5. Revise § 4.4 to read as follows:

##### **§ 4.4 Requirements for making requests.**

(a) *How made and addressed.* The Department has a decentralized system

for responding to FOIA requests, with each component designating a FOIA office to process records from that component. All components have the capability to receive requests electronically either through electronic mail (email) or the FOIAonline website, <http://foiaonline.regulations.gov>. A request for Department records that are not customarily made available to the public as part of the Department's regular informational services (or pursuant to a user fee statute), must be in writing and shall be processed under the FOIA, regardless of whether the FOIA is mentioned in the request. Requests must include the requester's full name and a valid return address. Requesters may also include other contact information, such as an email address and a telephone number. For the quickest handling, the request (and envelope, if the request is mailed or hand delivered) should be marked "Freedom of Information Act Request." Requests may be submitted by U.S. mail, delivery service, email, or online at the FOIAonline website, <http://foiaonline.regulations.gov>. Requests may also be submitted to some components, identified in Appendix A to this part, by facsimile. Requests should be sent to the Department component identified in Appendix A to this part that maintains those records requested, and should be sent to the addresses, email addresses, or numbers listed in Appendix A to this part or the Department's website, <http://www.doc.gov>.<sup>1</sup> If the proper component cannot be determined, the request should be sent to the central facility identified in Appendix A to this part. The central facility will forward the request to the component(s) it believes most likely to have the requested records. Requests will be considered received for purposes of the 20-day time limit of § 4.6 as of the date it is received by the proper component's FOIA office, but in any event not later than ten working days after the request is first received by any Department component identified in Appendix A to this part.

(b) *Requests for records about an individual or oneself.* For requests for records about oneself, § 4.24 of this part contains additional requirements. For requests for records about another individual, either a notarized authorization signed by that individual or a declaration by that individual made

under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization, permitting disclosure of the individual's records to the requester, or proof that the individual is deceased (for example, a copy of a death certificate or an obituary) will facilitate processing the request.

(c) *Description of records sought.* (1) A FOIA request must reasonably describe the agency records sought, to enable Department personnel to locate them with a reasonable amount of effort.

(2) Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number, and the name and location of the office where the record(s) might be found.

(i) In addition, if records about a court case are sought, the title of the case, the court in which the case was filed, and the nature of the case should be included.

(ii) If known, any file designations or descriptions of the requested records should be included.

(iii) As a general rule, the more specifically the request describes the records sought, the greater the likelihood that the Department will be able to locate those records.

(3) Before submitting their requests, requesters may first contact the Department's or the component's FOIA contact to discuss the records they are seeking and to receive assistance in describing the records.

(4) For further assistance, requesters may also contact the relevant FOIA Requester Service Center or FOIA Public Liaison. Contact information for relevant FOIA Requester Service Centers and FOIA Public Liaisons is contained on the Department's website, <http://www.osec.doc.gov/opog/contacts.html> and Appendix A to this part.

(5) If a component determines that a request does not reasonably describe the records sought, it shall inform the requester what additional information is needed or how the request is otherwise insufficient, to enable the requester to modify the request to meet the requirements of this section.

(6) Requesters who are attempting to reformulate or modify such a request may discuss their request first with the relevant FOIA Contact, or if unresolved, with the relevant Requester Service Center or FOIA Public Liaison to discuss the records they are seeking and to receive assistance in describing the records.

(7) When a requester fails to provide sufficient detail within 30 calendar days after having been asked to reasonably describe the records sought, the component shall notify the requester in writing that the request has not been properly made, that no further action will be taken, and that the FOIA request is closed. Such a notice constitutes an adverse determination under § 4.7(d) for which components shall follow the procedures for a denial letter under § 4.7(e).

(8) In cases where a requester has modified his or her request, the date of receipt for purposes of the 20-day time limit of § 4.6 shall be the date of receipt of the modified request.

■ 6. Amend § 4.5 by revising paragraphs (a), (b), and (c) to read as follows:

#### **§ 4.5 Responsibility for responding to requests.**

(a) *In general.* Except as stated in paragraph (b) of this section, the proper component of the Department to respond to a request for records is the component that first receives the request and has responsive records (or in the instance of where no records exist, the component that first receives the request and is likely to have responsive records), or the component to which the Departmental FOIA Officer or component FOIA Officer assigns lead responsibility for responding to the request. Where a component's FOIA office determines that a request was misdirected within the Department, the receiving component's FOIA office shall route the request to the FOIA office of the proper component(s). Records responsive to a request shall include those records within the Department's possession and control as of the date the Department begins its search for them. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.

(b) *Consultations and referrals.* When the Department or a component receives a request for a record (or a portion thereof) in its possession that originated with another Departmental component or Federal agency subject to the FOIA, the Department or component should typically refer the record to the component or originating agency for direct response to the requester (see § 4.8 for additional information about referrals of classified information). When the Department or a component receives a request for a record (or a portion thereof) in its possession that originated with another Departmental component, Federal agency, or executive branch office that is not subject to the FOIA, the Department or

<sup>1</sup> The United States Patent and Trademark Office (USPTO), which is established as an agency of the United States within the Department of Commerce, operates under its own FOIA regulations at 37 CFR part 102, subpart A. Accordingly, requests for USPTO records, and any appeals thereof, should be sent directly to the USPTO.

component shall consult with that component, Federal agency, or executive branch office before responding to the requester. In instances where a record is requested that originated with the Department or component and another component, Federal agency, or executive branch office has substantial interest in the record (or a portion thereof), the Department or component should typically consult with that component, Federal agency, or executive branch office before responding to the requester.

(c) *Notice of referral.* Whenever a component refers a record to another Federal agency or Department component for direct response to the requester, the component's FOIA Officer should typically notify the requester in writing of the referral and inform the requester of the name(s) of the agency or Department component to which the record was referred, including that agency's or component's FOIA contact information. The standard referral procedure is not appropriate where disclosure of the identity of the agency or Department component to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if a non-law enforcement agency responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party were not publicly known, then to disclose that law enforcement interest by providing notice of a referral could cause an unwarranted invasion of the personal privacy of the third party. In such cases, the agency that received the request should consult with the originating agency to seek its views on the disclosability of the record and the release determination should then be conveyed to the requester by the agency that originally received the request.

\* \* \* \* \*

■ 7. Amend § 4.6 by revising paragraphs (d)(1), (d)(2), and (e)(1) to read as follows:

**§ 4.6 Time limits and expedited processing.**

\* \* \* \* \*

(d) \* \* \*. (1) Components may extend the time period for processing a FOIA request only in "unusual circumstances," as described in paragraph (d)(2) of this section, in which the component shall, before expiration of the twenty-day period to respond, notify the requester of the

extension in writing of the unusual circumstances involved and the date by which processing of the request is expected to be completed. If the extension is for more than ten working days, the component shall provide the requester with an opportunity to modify the request or agree to an alternative time period for processing the original or modified request. Furthermore, the requester will be advised that the relevant FOIA Public Liaison or FOIA contact is available for this purpose and of the requester's right to seek dispute resolution services from the Office of Government Information Services (OGIS).

(2) For purposes of this section, "unusual circumstances" include:

(i) The need to search for and collect the requested agency records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are the subject of a single request; or

(iii) The need to consult, which shall be conducted with all practicable speed, with another Federal agency having a substantial interest in the determination of the FOIA request or with another component of the Department which has a substantial interest in the determination of the request.

\* \* \* \* \*

(e) *Multi-track processing.* (1) A component must use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including the amount of pages involved, the need to consult with or refer to other agencies or Department components or for commercial confidential information to a third party, or whether the request qualifies for unusual circumstances as described in paragraph (d)(2) of this section, and whether the request qualifies for expedited processing as described in paragraph (f) of this section.

\* \* \* \* \*

■ 8. Revise § 4.7 to read as follows:

**§ 4.7 Responses to requests.**

(a) *Acknowledgment of requests.* Upon receipt of a request, a component ordinarily shall send an acknowledgement to the requester which shall provide an assigned tracking request number for further reference and, if necessary, confirm whether the requester is willing to pay fees. A component must send this

acknowledgment if the request will take longer than ten working days to process. In most cases, the acknowledgement email, generated by the FOIAonline system, that is sent to requesters who provide an email address will suffice for this requirement.

(b) *Interim responses.* If a request involves voluminous records or requires searches in multiple locations, to the extent feasible, a component shall provide the requester with interim responses. Such responses may include records that are fully releasable or records that have been withheld in part under one or more applicable FOIA exemptions set forth at 5 U.S.C. 552(b). Bureaus will make reasonable efforts to provide to requesters an estimated date when a determination will be provided. An interim response is not a determination and appeal rights need not be provided with the interim response.

(c) *Determination.* (1) *Grants of requests.* If a component makes a determination to grant a request in whole or in part, it shall notify the requester in writing of such determination.

(i) A component shall inform the requester:

(A) Of any fees charged under § 4.11; and

(B) That the requester may contact the relevant FOIA Public Liaison or FOIA contact for further assistance.

(ii) The component shall also disclose records to the requester promptly upon payment of any applicable fees.

(iii) Records disclosed in part shall be marked or annotated to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible.

(2) *Adverse determinations of requests.* If a component makes an adverse determination regarding a request, it shall notify the requester of that determination in writing.

(i) An adverse determination may be a denial of a request and includes decisions that:

(A) The requested record is exempt, in whole or in part.

(B) The request does not reasonably describe the records sought and the requester is unwilling to further clarify the request.

(C) The information requested is not a record subject to the FOIA.

(D) The requested record does not exist, cannot be located, or has previously been destroyed.

(E) The requested record is not readily reproducible in the form or format sought by the requester.

(ii) Adverse determinations may also include:

(A) Denials of requested fee category status.

(B) Denials of requests for fee waivers.

(C) Denials of requests for expedited processing.

(D) Denials of requests for reduction of fees.

(3) *Content of denial.* The denial letter shall be signed by an official listed in Appendix B to this part (or a designee), and shall include:

(i) The name and title or position of the person responsible for the denial;

(ii) A brief statement of the reason(s) for the denial, including any FOIA exemption(s) applied by the component in denying the request;

(iii) An estimate of the volume of any records or information withheld, by providing the number of pages or some other reasonable form of estimation. This estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part, or if providing an estimate would harm an interest protected by an applicable FOIA exemption;

(iv) A statement advising the requester of the right to seek dispute resolution services from the Department FOIA Public Liaison, the relevant component FOIA Public Liaison or FOIA contact, or OGIS; and

(v) A statement that the denial may be appealed under § 4.10, and a list of the requirements for filing an appeal set forth in § 4.10(b).

■ 9. Revise § 4.9 to read as follows:

#### § 4.9 Confidential commercial information.

(a) *Definitions.* For the purposes of this section:

(1) *Confidential commercial information* means commercial or financial information, obtained by the Department from a submitter, which may be protected from disclosure under FOIA exemption (b)(4) (5 U.S.C. 552(b)(4)).

(2) *Submitter* means any person or entity outside the Federal Government from which the Department obtains confidential commercial information, directly or indirectly. The term includes U.S. or foreign persons, U.S. or foreign corporations; state, local and tribal governments; and foreign governments.

(b) *Designation of confidential commercial information.* A submitter of confidential commercial information should be encouraged to use good-faith efforts to designate, by appropriate markings, either at the time of

submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under FOIA exemption (b)(4). These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer period.

(c) *Notice to submitters.* (1) A component shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its confidential commercial information whenever required under paragraph (d) of this section, except as provided in paragraph (g) of this section, in order to give the submitter an opportunity under paragraph (e) of this section to object to disclosure of any specified portion of that information.

(2) Such written notice shall be sent via certified mail, return receipt requested, or similar means.

(3) Where notification of a voluminous number of submitters is required, such notification may be accomplished by posting or publishing the notice in a place reasonably calculated to accomplish notification.

(4) The notice shall either describe the confidential commercial information requested or include copies of the requested records or portions of the records containing the information. If notification of a large number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification, instead of sending individual notifications.

(d) *When notice is required.* Notice shall be given to the submitter whenever:

(1) The submitter has designated the information in good faith as protected from disclosure under FOIA exemption (b)(4); or

(2) The component has reason to believe that the information may be protected from disclosure under FOIA exemption (b)(4), but has not yet determined whether the information is protected from disclosure.

(e) *Opportunity to object to disclosure.* A component shall allow a submitter seven working days (*i.e.*, excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the written notice described in paragraph (c) of this section to provide the component with a statement of any objection to disclosure. A FOIA Officer may extend the comment period from seven to ten working days, if a submitter requests an extension. The statement from a submitter must identify any portions of the information the submitter requests to be withheld under

FOIA exemption (b)(4), and describe how each qualifies for protection under the exemption: that is, why the information is a trade secret, or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information.

Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* A component shall consider a submitter's objections and specific grounds under the FOIA for nondisclosure in deciding whether to disclose confidential commercial information. If a component decides to disclose confidential commercial information over a submitter's objection, the component shall give the submitter written notice via certified mail, return receipt requested, or similar means, which shall include:

(1) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(2) A description of the confidential commercial information to be disclosed; and

(3) A statement that the component intends to disclose the information seven working days, or ten working days if an extension is granted, from the date the submitter receives the notice.

(g) *Exceptions to notice requirements.* The notice requirements of paragraphs (c) and (f) of this section shall not apply if:

(1) The component determines that the information is exempt and will be withheld under a FOIA exemption;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with Executive Order 12600; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous, except that, in such a case, the component shall provide the submitter written notice of any final decision to disclose the information seven working days after the date the submitter receives the notice.

(h) *Notice to submitter of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of confidential commercial information, the component shall promptly notify the submitter. Where notification of a voluminous number of submitters is required, such notification may be

accomplished by posting or publishing the notice in a place reasonably calculated to accomplish notification.

(i) *Corresponding notice to requester.* Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraph (c) of this section, the component shall notify the requester that the request is being processed under the provisions of this regulation and, as a consequence, there may be a delay in receiving a response. The notice to the requester will not include any of the specific information contained in the records being requested. Whenever a submitter files a lawsuit seeking to prevent the disclosure of confidential commercial information, the component shall notify the requester of such action and, as a consequence, there may be further delay in receiving a response.

■ 10. Amend § 4.10 by revising paragraphs (a), (b), (c), and (d) to read as follows:

**§ 4.10 Appeals from initial determinations or untimely delays.**

(a)(1) If a request for records to a component other than the Office of Inspector General is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse determination regarding any other matter listed under this subpart (as described in § 4.7(c)), the requester may file an appeal. Appeals can be submitted in writing or electronically, as described in paragraph (b)(1) of this section. For requests filed on or after July 1, 2016, the appeal must be received by the Office of the General Counsel during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday) within 90 calendar days of the date of the written denial of the adverse determination or, if there has been no determination, an appeal may be submitted any time after the due date of the request, including the last extension under § 4.6(d), of a request due date. Written or electronic appeals arriving after normal business hours will be deemed received on the next normal business day. If the 90th calendar day falls on a Saturday, Sunday, or a legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. Appeals received after the 90-day limit will not be considered.

(2) If a request for records to the Office of Inspector General is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse determination regarding any other matter listed under this subpart (as described in § 4.7(c)),

the requester may file an appeal.

Appeals can be submitted in writing or electronically, as described in paragraph (b)(2) of this section. For requests submitted on or after July 1, 2016, the appeal must be received by the Office of Inspector General, Office of Counsel, during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday) within 90 calendar days of the date of the written denial of the adverse determination or, if there has been no determination, an appeal may be submitted any time after the due date, including the last extension under § 4.6(d), of the adverse determination. Written or electronic appeals arriving after normal business hours will be deemed received on the next normal business day. If the 90th calendar day falls on a Saturday, Sunday, or a legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. Appeals received after the 90-day limit will not be considered.

(b)(1) Appeals, other than appeals from requests made to the Office of Inspector General, shall be decided by the Assistant General Counsel for Employment, Litigation, and Information (AGC-ELI). Written appeals should be addressed to the Assistant General Counsel for Employment, Litigation, and Information, at the U.S. Department of Commerce, Office of the General Counsel, Room 5896, 1401 Constitution Avenue NW, Washington, DC 20230. For a written appeal, both the letter and the appeal envelope should be clearly marked "Freedom of Information Act Appeal." Appeals may also be submitted electronically either by email to [FOIAAppeals@doc.gov](mailto:FOIAAppeals@doc.gov) or online at the FOIAonline website, <http://foiaonline.regulations.gov>, if requesters have a FOIAonline account. In all cases, the appeal (written or electronic) should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided. Upon receipt of an appeal, AGC-ELI ordinarily shall send an acknowledgement letter to the requester which shall confirm receipt of the requester's appeal.

(2) Appeals of initial and untimely determinations by the Office of Inspector General shall be decided by the Counsel to the Inspector General, except that appeals of records requests that were initially denied by the Counsel to the Inspector General shall be decided by the Deputy Inspector

General. Written appeals should be addressed to the Counsel to the Inspector General, or the Deputy Inspector General if the records were initially denied by the Counsel to the Inspector General. The address of both is: U.S. Department of Commerce, Office of the Inspector General, Office of Counsel, Room 7898C, 1401 Constitution Avenue NW, Washington, DC 20230. For a written appeal, both the letter and the appeal envelope should be clearly marked "Freedom of Information Act Appeal." Appeals may also be submitted electronically either by email to [FOIA@oig.doc.gov](mailto:FOIA@oig.doc.gov) or online at the FOIAonline website, <http://foiaonline.regulations.gov>, if requesters have a FOIAonline account. In all cases, the appeal (written or electronic) should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided. Upon receipt of an appeal, the Counsel to the Inspector General, or the Deputy Inspector General if the records were initially denied by the Counsel to the Inspector General, ordinarily shall send an acknowledgement letter to the requester which shall confirm receipt of the requester's appeal.

(c) Upon receipt of an appeal involving records initially denied on the basis of FOIA exemption (b)(1) of this section, the records shall be forwarded to the Deputy Assistant Secretary for Security (DAS) for a declassification review. The DAS may overrule previous classification determinations in whole or in part if continued protection in the interest of national security is no longer required, or no longer required at the same level. The DAS shall advise the AGC-ELI, the General Counsel, Counsel to the Inspector General, or Deputy Inspector General, as appropriate, of his or her decision.

(d) If an appeal is granted, the notification letter may include documents to be released or the request may be referred back to the component for further action consistent with the determination on the appeal.

\* \* \* \* \*

■ 11. Amend § 4.11 by revising paragraphs (a), (b)(2), (b)(4), (b)(6), (b)(7), (b)(8), (c) introductory text, (c)(2), (c)(3)(ii), (d)(6), (d)(7), (e), (i)(4), (j), (l)(2)(iii), (l)(3)(ii), and (l)(5) and adding paragraph (d)(8) to read as follows:

**§ 4.11 Fees.**

(a) *In general.* Components shall charge fees for processing requests



under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or when a waiver or reduction is granted under paragraph (l) of this section. A component shall collect all applicable fees before processing a request if a component determines that advance payment is required in accordance with paragraphs

(i)(2) and (i)(3) of this section. If advance payment of fees is not required, a component shall collect all applicable fees before sending copies of requested records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b)\* \* \*

(2) *Direct costs* means those expenses a component incurs in searching for and

duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. The hourly processing fees for calculating direct costs for Department or component personnel searching for, duplication, and reviewing records are reflected in Table 1. Note that the 16% overhead has already been included in the hourly rates identified in Table 1.

TABLE 1—FOIA HOURLY PROCESSING FEES

Type	Grade	Hourly rate
Administrative .....	E-9/GS-8 and below .....	\$28
Professional .....	Contractor/O-1 to O-6/W-1 to W-5/GS-9 to GS-15 .....	56
Executive .....	O-7 and above and Senior Executive Service .....	128

\* \* \* \* \*

(4) *Educational institution* is any school that operates a program of scholarly research. A requester in this fee category must show that the request is made in connection with his or her role at the educational institution. Educational institutions may include a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education. A Department component may seek verification from the requester that the request is in furtherance of scholarly research and agencies will advise requesters of their placement in this category. Verification may be supported by a letter from a teacher, instructor, or professor written on the institution's letterhead or from an institutional email address and in which the body of the email outlines the research to be conducted. Student requests may be supported by evidence that the records are sought for the student's academic research purposes, for example, through evidence of a class assignment or a letter from a teacher, instructor, or professor. A component's decision to grant a requester educational institution status will be made on a case-by-case basis based upon the requester's intended use of the material.

*Example 1.* A request from a professor or a student of geology at a university for records relating to soil erosion, written on letterhead of the Department of Geology, would be presumed to be from an educational institution.

*Example 2.* A request from the same professor or student of geology seeking drug information from the Food and Drug Administration in furtherance of a murder mystery he is writing would not be presumed to be an institutional request, regardless of

whether it was written on institutional letterhead.

*Example 3.* A student who makes a request in furtherance of their coursework or other school-sponsored activities and provides a copy of a course syllabus or other reasonable documentation to indicate the research purpose for the request, would qualify as part of this fee category.

\* \* \* \* \*

(6) *Representative of the news media, or news media requester*, means any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work and distributes that work to an audience. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at-large and publishers of periodicals that disseminate "news" and make their products available through a variety of means to the general public including news organizations that disseminate solely on the internet. To be in this category, a requester must not be seeking the requested records for a commercial use. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination. A component's decision to grant a requester media status will be made on a case-by-case basis based

upon the requester's intended use of the material. The mere fact that a person or entity has been classified as news media with respect to one request does not mean they will be so considered as news media with respect to any other requests.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting it and marking any applicable exemptions. Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent obtaining and considering any formal objection to disclosure made by a submitter under § 4.9, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Components shall ensure that searches are done in the most efficient and least expensive manner reasonably possible.

(c) *Fees.* In responding to FOIA requests, components shall charge the fees summarized in chart form in paragraphs (c)(1) and (c)(2) of this section and explained in paragraphs (c)(3) through (c)(5) of this section, unless a waiver or reduction of fees has been granted under paragraph (l) of this section.

\* \* \* \* \*

(2) Uniform fee schedule.



Service	Rate
(i) Manual search .....	Hourly rate from Table 1 of employee involved.
(ii) Computerized search .....	Actual direct cost, including operator time, using the hourly rate from Table 1, of the employee involved.
(iii) Review of records .....	Hourly rate from Table 1 of employee involved.
(iv) Duplication of records:	
(A) Paper copy reproduction .....	\$.08 per page.
(B) Other reproduction (e.g., converting paper into an electronic format (e.g., scanning), computer disk or printout, or other electronically-formatted reproduction (e.g., uploading records made available to the requester into FOIAonline)).	Actual direct cost, including operator time, using the hourly rate from Table 1, of the employee involved.

(3) \* \* \*

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (d)(1) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (d)(3) of this section) are entitled to the cost equivalent of two hours of manual search time without charge. These direct costs will include the costs of the operator/programmer FOIA hourly processing rate apportionable to the search and any other tangible direct costs associated with a computer search.

\* \* \* \* \*

(d) \* \* \*

(6) No search fees shall be charged to a FOIA requester when a component does not comply with the statutory time limits at 5 U.S.C. 552(a)(6) in which to respond to a request (this section only applies to FOIA requests, not appeals), except as described in paragraph (d)(8) of this section.

(7) No duplication fees shall be charged to requesters in the fee category of a representative of the news media or an educational or noncommercial scientific institution when a component does not comply with the statutory time limits at 5 U.S.C. 552(a)(6) in which to respond to a request, except as described in paragraph (d)(8) of this section.

(8)(i) When a Department component determines that unusual circumstances, as those terms are defined in § 4.6(d)(2), apply to the processing of the request, and provides timely written notice to the requester in accordance with the FOIA, then the Department component is granted an additional ten days until the fee restrictions in paragraphs (d)(6) and (7) of this section apply.

(ii) The fee restrictions in paragraphs (d)(6) and (7) of this section do not apply:

(A) When a Department component determines that unusual circumstances, as those terms are defined in § 4.6(d)(2), apply to the processing of the request;

(B) More than 5,000 pages are

necessary to respond to the request;

(C) The Department component provides timely written notice to the requester in accordance with the FOIA; and

(D) The Department component has discussed with the requester (or made three good faith attempts to do so) on how the requester can effectively limit the scope of the request.

(e) *Notice of anticipated fees in excess of \$20.00.* (1) When a component determines or estimates that the fees for processing a FOIA request will total more than \$20.00 or total more than the amount the requester indicated a willingness to pay, the component shall notify the requester of the actual or estimated amount of the fees, unless the requester has stated in writing a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee. A notice under this paragraph shall offer the requester an opportunity to discuss the matter with Departmental personnel in order to modify the request in an effort to meet the requester's needs at a lower cost. The requester may also contact the Department FOIA Public Liaison, the relevant component's FOIA Public Liaison or FOIA contact, or OGIS for further assistance, or file an administrative appeal of the fee estimate amount in accordance with § 4.10.

(2) When a requester has been notified that the actual or estimated fees will amount to more than \$20.00, or amount to more than the amount the requester indicated a willingness to pay, the component will do no further work on the request until the requester agrees in writing to pay the actual or estimated total fee. The component will toll the processing of the request when it notifies the requester of the actual or estimated amount of fees and this time will be excluded from the twenty (20) working day time limit (as specified in

§ 4.6(b)). The requester's agreement to pay fees must be made in writing, must designate an exact dollar amount the requester is willing to pay, and must be received within 30 calendar days from the date of the notification of the fee estimate. If the requester fails to submit an agreement to pay the anticipated fees within 30 calendar days from the date of the component's fee notice, the component will presume that the requester is no longer interested and notify the requester that the request will be closed.

\* \* \* \* \*

(i) \* \* \*

(4) When the component requires advance payment or payment due under paragraphs (i)(2) and (i)(3) of this section, the component will not further process the request until the required payment is made. The component will toll the processing of the request when it notifies the requester of the advanced payment due and this time will be excluded from the twenty (20) working day time limit (as specified in § 4.6(b)). If the requester does not pay the advance payment within 30 calendar days from the date of the component's fee notice, the component will presume that the requester is no longer interested and notify the requester that the request will be closed.

(j) *Tolling.* When necessary for the component to clarify issues regarding fee assessment with the FOIA requester, the time limit for responding to the FOIA request is tolled until the component resolves such issues with the requester. The tolling period is from the day a requester was contacted through the working day (i.e., excluding Saturdays, Sundays, and legal public holidays) on which a response was received by the responsible component.

\* \* \* \* \*

(1) \* \* \*

(2) \* \* \*

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure:* Whether disclosure of the requested

information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media satisfies this consideration.

\* \* \* \* \*

(3) \* \* \*

(ii) *The primary interest in disclosure:* Whether any identified commercial interest of the requester is sufficiently great, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified if the public interest standard (paragraph (l)(1)(i) of this section) is satisfied and the public interest is greater than any identified commercial interest in disclosure. Components ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market Government information for direct economic return shall not be presumed to primarily serve the public interest.

\* \* \* \* \*

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (l)(2) and (3) of this section, insofar as they apply to each request.

■ 12. Amend Appendix A to Part 4 by revising paragraphs (5) introductory text and (5)(v) to read as follows:

**Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction of Amendment Under the Privacy Act**

\* \* \* \* \*

(5) Economic Development Administration, Office of the Chief Counsel, U.S. Department of Commerce, 14th and Constitution Avenue NW, Room 72023, Washington, DC 20230; Ph.: (202) 482-3085; Fax: (202) 482-5671; FOIAonline: <http://foiaonline.regulations.gov>. This component maintains a separate online Electronic FOIA Library through its website, <http://www.eda.gov>. The following Regional EDA offices do not maintain separate online Electronic FOIA Libraries.

\* \* \* \* \*

(v) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Robert N.C. Nix Federal Building, 900 Market Street, Room

602, Philadelphia, Pennsylvania 19107; Ph.: (215) 597-4603.

\* \* \* \* \*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-1066]

RIN 1625-AA00

#### Safety Zone; Ohio Street Beach Swim Course, Lake Michigan, Chicago Harbor, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and after large scale swim events that occur throughout each calendar year. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Lake Michigan.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 8, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-1066 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, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986-2155, email [D09-DG-MSUChicago-Waterways@uscg.mil](mailto: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

Each year, many large-scale swim events occur on Lake Michigan in

Chicago Harbor, near the Ohio Street Beach in Chicago, IL. These events take place on a monthly and sometimes weekly basis. The Captain of the Port, Lake Michigan has determined that the size and nature of these events will pose a significant risk to public safety and property. The potential hazards associated with these events would be a safety concern for participants as well as recreational and commercial traffic in or around the course where the events take place.

This purpose of the rulemaking is to ensure the safety of vessels, persons and the navigable waters before, during, and after a scheduled event. The specific hazards include collisions among event participants, recreational traffic, and commercial traffic that may cause injury or marine casualties. The Coast Guard proposes this rulemaking under authority in 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.

##### III. Discussion of Proposed Rule

With these hazards in mind, the Captain of the Port, Lake Michigan has determined that this safety zone is necessary to ensure the safety of the public during large-scale swim events that take place on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. The Captain of the Port will notify the public when the permanent safety zone in this proposed rule will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification will include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

This zone will encompass all waters bound by a line drawn from 41°53.7767' N, 087°36.48' W then North to 41°53.9517' N, 087°36.505' W then Northwest to 41°54.1533' N, 087°36.6933' W then Southwest to 41°54.065' N, 087°37.1517' W then Southeast to 41°53.6033' N, 087°36.8333' W then East to 41°53.6317' N, 087°36.7017' W and then along the shoreline back to the point of origin (NAD83).

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Lake Michigan or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16. The

regulatory text we are proposing appears at the end of this document.

#### 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.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of Lake Michigan in Chicago Harbor for no more than a few hours during a swim event.

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

##### D. Federalism and Indian Tribal Governments

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

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

##### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule

will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### F. Environment

We have analyzed this proposed 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 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 for large-scale swim events that take place on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. 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 record keeping requirements, Security measures, Waterways.

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

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.932 to read as follows:

#### § 165.932 Safety Zone; Ohio Street Beach Swim Course, Lake Michigan, Chicago Harbor, Chicago, IL.

(a) *Location.* All U.S. navigable waters of Lake Michigan bound by a line drawn from 41°53.7767' N, 087°36.48' W then North to 41°53.9517' N, 087°36.505' W then Northwest to 41°54.1533' N, 087°36.6933' W then Southwest to 41°54.065' N, 087°37.1517' W then Southeast to 41°53.6033' N, 087°36.8333' W then East to 41°53.6317' N, 087°36.7017' W and then along the shoreline back to the point of origin (NAD83).

(b) *Enforcement Period.* The safety zone established by this section will be enforced only upon notice by the Captain of the Port, Lake Michigan. The Captain of the Port, Lake Michigan will publish notices of enforcement in accordance with § 165.7(a) and in a manner that provides as much notice as possible. The primary method of notification will be through publication to the **Federal Register**. The Captain of the Port, Lake Michigan, may also provide notice through other means, such as Broadcast Notice to Mariners, Local Notice to Mariners, local news

media, distribution in leaflet form, and on-scene oral notice.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan or a designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or a designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan or an on-scene representative may be contacted via VHF Channel 16 or at (414) 747–7182.

Dated: January 22, 2018.

**Thomas J. Stuhlfreyer,**

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

[FR Doc. 2018–02322 Filed 2–5–18; 8:45 am]

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#### LIBRARY OF CONGRESS

##### Copyright Office

#### 37 CFR Parts 201, 202, 211, 212

[Docket No. 2018–1]

#### Streamlining the Single Application and Clarifying Eligibility Requirements

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On December 16, 2017, the U.S. Copyright Office released a new version of the Single Application, an online registration option that allows a single author to register a claim in one work that is solely owned by the same author and is not a work made for hire. The new Single Application includes enhanced features that should improve the user experience, increase the efficiency of the examination, and reduce the correspondence rate for these types of claims. To coincide with these technical upgrades, the Office is now proposing to amend its regulations to clarify the eligibility requirements for

the Single Application, and codify certain practices set forth in the *Compendium of U.S. Copyright Office Practices, Third Edition*. In addition, the proposed rule confirms that the Single Application may be used to register one sound recording and one musical work, literary work, or dramatic work— notwithstanding the fact that a sound recording and the work embodied in that recording are separate works. The proposed rule will also clarify the eligibility requirements for the Office's Standard Application, which is used to register certain works that are ineligible for the Single Application, such as works with more than one owner. In addition, the proposed rule will eliminate the “short form” version of the Office's paper applications, and make technical amendments to the regulations governing preregistration, architectural works, mask works, vessel designs, the unit of publication registration option, and the group registration option for database updates. The proposed rule will also allow for paper applications to be certified with a typed or printed signature by removing the requirement that the certification must include a “handwritten” signature of the certifying party.

**DATES:** Comments on the proposed rule must be made in writing and must be received in the U.S. Copyright Office no later than March 8, 2018.

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

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice; Erik Bertin, Deputy Director of Registration Policy and Practice; or Anna Chauvet, Assistant General Counsel, by telephone at 202–707–8040 or by email at [rkas@loc.gov](mailto:rkas@loc.gov), [ebertin@loc.gov](mailto:ebertin@loc.gov), or [achau@loc.gov](mailto:achau@loc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In 2013, the Office issued an interim rule that established a new registration option known as the “Single

Application.” This application was designed “for those authors who file the simplest kind of [claim].” 78 FR 38843, 38845 (June 28, 2013). The purpose of the Single Application was to “encourage more individual creators to register their works” and to “foster the development of a more robust public record.” *Id.* at 38844, 38845. Specifically, the Single Application may be used to register “a single work by a single author that is owned by the person who created it.” 37 CFR 202.3(b)(2)(i)(B). The application must be submitted “electronically” through the Office’s website, and “[t]he claimant and the author must be the same.” *Id.* §§ 202.3(b)(2)(i)(A), (B).

Certain types of works are not eligible for the Single Application option, as they create a more complex application that takes additional time to examine. For example, the Single Application cannot be used to register “works by more than one author,” “works with more than one owner,” collective works, unpublished collections, units of publication, databases, or websites. *Id.* § 202.3(b)(2)(i)(B). Instead, an applicant must submit the Office’s “Standard Application” through the Office’s electronic registration system, or a paper application submitted on Forms PA, SR, TX, VA, or SE to register these types of works.<sup>1</sup>

Although the Office intended for the Single Application to be “administratively simple” to process, 78 FR at 38843, in practice, claims submitted on the Single Application often require more correspondence than other filings. For example, mistakenly using the Single Application for works co-created or co-owned by two or more people is one of the most common reasons that the Office must correspond with applicants. This unexpected administrative burden on the Office appears to stem from the manner in which its electronic registration system used to direct applicants to either the Single Application or Standard Application.

On December 16, 2017, the Office released a new and improved version of the Single Application to address these

issues. Applicants must now affirmatively select a link that is specifically designated for claims involving “one work by one author.” The new version of the Single Application describes its eligibility requirements in a clear and concise manner, and applicants must confirm that they have read and understood these requirements before they may use this form. The Office also released an updated circular that provides detailed information about the new version of the Single Application. See Copyright Office, Circular 11: Using the Single Application (2017). In addition, the new version offers enhanced features that should improve the user experience, increase the efficiency of the examination, and promote the overall quality of the registration record. Information concerning these new features is available on the Office’s website at <https://www.copyright.gov/eco/updates/index.html>.

## B. The Proposed Rule

The Office is proposing to amend the regulations governing the Single Application and the Standard Application to better reflect the technical upgrades that have been made to the Office’s electronic registration system, eCO (the “Proposed Rule”). The Proposed Rule will clarify the eligibility requirements for each application, and codify certain practices that are set forth in the *Compendium of U.S. Copyright Office Practices, Third Edition* (“*Compendium*”). In addition, the Proposed Rule will eliminate the “short form” version of the Office’s paper applications, and make several technical amendments to improve the organization, consistency, and readability of the regulations. The Proposed Rule will also allow paper applications to be certified with a typed or printed signature by removing the requirement that the certification must include a “handwritten” signature of the certifying party. The Office welcomes public comment on each proposal.

### 1. The Single Application

The Proposed Rule improves readability of the Office’s regulations by restating the eligibility requirements for the Single Application. The Proposed Rule confirms that: (1) Each claim must be limited to one work (with a limited exception for sound recordings described below); (2) each work must be created by one individual; (3) all the content appearing in the work must be created by that same individual; and (4) the individual must be the sole owner of all rights in the work. These changes

are intended to clarify the current requirements and do not represent a substantive change in policy.

The Proposed Rule states that the Single Application may not be used to register collective works, databases, or websites—because they often contain multiple works of authorship—or choreographic works or architectural works<sup>2</sup>—because such claims tend to be very complex. See 78 FR at 38445 (stating that the Single Application is intended “for those authors who file the simplest kind of [claim]”).

Although the Single Application may be used only to register one work by one author, there is a limited exception for sound recordings. The Proposed Rule confirms that the Single Application may be used to register one sound recording and one musical work, literary work, or dramatic work— notwithstanding the fact that a sound recording and the work embodied in that recording are separate works. To do so, applicants must satisfy the conditions set forth in 37 CFR 202.3(b)(1)(iv)(A)–(C), as well as the generally applicable requirements for the Single Application. In particular, the author of the sound recording and the work embodied in that recording must be the same individual, that individual must own the copyright in both works, and that individual must be the only performer featured in the recording. For example, the Single Application could be used to register a song and sound recording written and performed solely by Paul. But it could not be used to register a song written by Paul together with a recording of that song performed solely by Art or jointly performed by Art and Paul. Although this practice is not mentioned in the current regulation, it has appeared in the *Compendium*, the circular, and the help text, and thus does not represent a substantive change in policy.<sup>3</sup> The Office invites public

<sup>2</sup> This requirement has appeared in the *Compendium*, the help text for the Single Application, and the Office’s informational brochure for some time. See *Compendium*, secs. 609.1(A)–(C) (3d ed. 2017); *Help: Created*, U.S. Copyright Office, <https://www.copyright.gov/eco/help-created.html> (last visited Jan. 26, 2018); *Question 3: Does the work you are sending contain material created only by this author?*, U.S. Copyright Office, <https://www.copyright.gov/eco/help-owned.html> (last visited Jan. 26, 2018).

<sup>3</sup> Similarly, the regulations governing the Standard Application and the paper applications state that an applicant may register a sound recording together with the musical work, dramatic work, or literary work embodied in that recording, provided that both works are fixed in the same phonorecord, the applicant has submitted one application for both works, and the claimant for both works is the same person or organization. 37 CFR 202.3(b)(1)(iv)(A)–(C). When submitting an online application, the applicant must select “sound recording” as the type of work. When

<sup>1</sup> In 2014, the Office announced that the term “single” would be used to identify “the newly introduced single author/single work offering,” and the term “standard” would be used to identify the “standard” version of the online application, as well as the Office’s printed forms. 79 FR 15910, 15911 n.10 (Mar. 24, 2014). In practice, however, the Office uses the term “standard” only when referring to the online application. When referring to its printed forms, the Office uses the term “paper application” or the specific name for each form, such as “Form PA” or “Form SR.” The proposed rule updates the regulation to reflect the current terminology.

comment, however, on whether the Single Application should be permitted to register one sound recording and one musical work, literary work, or dramatic work in cases where the author of the sound recording and the work embodied in that recording is the same individual and that individual also owns the copyright in both works, but that individual is *not* the only performer featured in the recording (e.g., whether a Single Application should be permitted to register a song written by Paul, where Paul is the author of the sound recording, but the recording features Art and Paul performing the song).

If the Office determines that a particular work does not satisfy the eligibility requirements for the Single Application, it will refuse to register the claim. In particular, works made for hire or works created by two or more individuals are not eligible for the Single Application. Applicants may not use the Single Application if the deposit contains material created by two or more authors (even if they only intend to register material created by one of those individuals). For the same reason, the Single Application may not be used to register a derivative work based on a preexisting work by a different author. And a work created solely by one individual cannot be registered with the Single Application if the author transferred his or her rights to another party, if the work is co-owned by two or more parties, or if the author is deceased. *See* 82 FR 21551, 21553 (May 9, 2017); 78 FR at 38844.

The Proposed Rule provides that a Single Application may be submitted by the author/claimant. It also maintains, for now, the current practice of permitting a duly authorized agent of the author/claimant to file such an application, provided that the agent is identified in the correspondent section of the application. In addition, the Proposed Rule confirms that a Single Application may be certified only by the author/claimant or a duly authorized agent of the author/claimant that has been identified in the application. If the Office determines that a third-party agent has filed a claim on the Single Application, but has failed to identify itself in the application, the Office will refuse to register the claim.

The Office, however, is considering whether to continue allowing an authorized agent of the author/claimant to submit a Single Application. The Single Application is intended to benefit individual authors by allowing

submitting a paper application, the applicant must use Form SR. 37 CFR 202.3(b)(1)(iv), (b)(2)(ii).

them to register their works for a discounted filing fee. The Office recognizes that many authors are not familiar with the electronic system, and that some individual creators may prefer to have an authorized agent submit the application on their behalf. But, in the Office's experience, the vast majority of Single Applications are submitted by publishers, producers, distributors, or other corporate entities—and it is unclear whether these entities need a discounted filing fee to encourage them to register works. In addition, it is unclear whether this widespread corporate use of the Single Application has impacted the overall cost recovery for the Office's registration services. The Office welcomes public comment on this issue.

## 2. The Standard Application

Applicants may use the Standard Application to register one work by one author, even if the work is eligible for registration with the Single Application. The Office encourages applicants to use the Standard Application if they are unsure if the work satisfies the strict eligibility requirements for the Single Application.

The Proposed Rule confirms that the Standard Application may be used to register any work that is eligible for registration under sections 408(a) and 409 of the Copyright Act, including a work by one author, a joint work, a work made for hire, a derivative work, a collective work, a compilation, a unit of publication, or a sound recording and the literary, dramatic, or musical work embodied in that recording.<sup>4</sup> In addition, the Proposed Rule clarifies that the Standard Application may not be used to seek a supplementary registration under section 408(d), a renewal registration under section 304, a registration for a restored work under section 104A, or a registration for a mask work or a vessel design under chapters 900 or 1300. Likewise, the Standard Application may not be used to register a group of related works under section 408(c)(1), unless it is expressly permitted under the Office's regulations.<sup>5</sup> Instead, applicants should

<sup>4</sup> The Proposed Rule also confirms that these types of claims may be submitted with a paper application. The Office notes that it is considering whether to eliminate the option of using the Standard Application to register an "unpublished collection" and replace it with a new group registration option for unpublished works. *See* 82 FR 47415 (Oct. 12, 2017).

<sup>5</sup> For example, the Standard Application may be used to register a group of secure test items. 37 CFR 202.13(c)(1). The proposed rule also confirms that the Standard Application may be used to register a group of updates or revisions to a photographic database (if the applicant has obtained prior

use the forms specifically designated for these types of claims.<sup>6</sup>

The Proposed Rule maintains that a Standard Application or a paper application may be submitted by an author, a claimant, a party that owns one or more of the exclusive rights in the work, or a duly authorized agent of the aforementioned parties. In addition, the Proposed Rule confirms that a Standard Application or a paper application may be certified by an author, a claimant, a party that owns one or more of the exclusive rights in the work, or a duly authorized agent of one or more of these parties. These revisions are intended to clarify the existing regulation, and do not represent a substantive change in policy.

In addition, the Proposed Rule will allow for paper applications to be certified with a typed or printed signature by removing the requirement that the certification *must* include a "handwritten" signature of the certifying party.

## 3. Short Form Paper Applications

The Office is proposing to eliminate the "short form" version of its paper applications, namely, Short Form PA, Short Form TX, Short Form VA, and Short Form SE. The short forms are similar in many respects to the Single Application. Short Forms PA, TX, and VA may be used to register "a single work," but only if a "living" individual is the sole author and owner of that work. 37 CFR 202.3(b)(2)(ii)(B). Likewise, the work cannot be a work made for hire, or a compilation or derivative work that contains previously published or previously registered material.

Although these requirements are clearly stated in the instructions, applicants often used paper short forms to register works that could not be registered with these forms, such as claims involving multiple works or works co-created or co-owned by two or more people. The Office frequently had to contact the applicant to request additional information or permission to correct the application. And in all cases, the Office had to scan the short form into the registration system and input the information by hand, which is a cumbersome, labor-intensive process. Due to these recurring problems, the Office removed the short paper forms

authorization from the Visual Arts Division); by contrast, applicants must use a paper application to register any other type of group database claim.

<sup>6</sup> The proposed rule confirms that this same principle applies to claims submitted on Forms PA, SR, TX, VA, and SE.

from its website several years ago and rarely receives these forms today.<sup>7</sup>

The Office recognizes that some applicants may prefer to submit their claims with paper applications, or they may be unable to use the electronic system. Eliminating the paper short forms should not have an adverse effect on these parties, however, because the Office is not proposing to eliminate the “long” version of these forms. The Office will continue to accept paper Forms PA, TX, VA, and SE, which may be used to register the same types of works as the short paper forms, and the filing fee for these forms is the same as the filing fee for the short forms.

#### 4. Technical Amendments

The Proposed Rule makes a number of technical amendments that do not represent substantive changes in policy. It removes the terms “single” work, “single” application, “single” filing fee, and “single” unit of publication, and replaces them with the terms “one work,” “one application,” “one filing fee,” and “the same unit of publication.” The changes also clarify that the Single Application cannot be used to preregister a unit of publication, and it cannot be used to register a mask work, vessel design, or a group of updates or revisions to a database. In addition, the Proposed Rule clarifies that an application for registration must include the information required by the relevant form, and it must be accompanied by the appropriate deposit required by 37 CFR 202.4, 202.20, or 202.21, as the case may be.

#### List of Subjects

##### 37 CFR Part 201

Cable television, Copyright, Jukeboxes, Recordings, Satellites.

##### 37 CFR Part 202

Claims, Copyright.

##### 37 CFR Part 211

Computer technology, Science and technology, Semiconductor chip products.

##### 37 CFR Part 212

Vessels.

In consideration of the foregoing, the U.S. Copyright Office proposes amending 37 CFR parts 201, 202, 211, and 212, as follows:

#### PART 201—GENERAL PROVISIONS

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

Authority: 17 U.S.C. 702.

■ 2. In § 201.3(c)(1) remove the word “standard”.

#### PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

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

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

■ 4. Amend § 202.3 as follows:

■ a. Revise paragraphs (b)(2)(i) introductory text, (b)(2)(i)(A) and (B).

■ b. Removing the word “submission” and adding in its place “application”, removing the word “application” and adding in its place “filing”, and removing the word “fund” and adding in its place “funds” in paragraph (b)(2)(i)(C).

■ c. Removing the word “payment” and adding in its place “filing fee” in paragraph (b)(2)(i)(D).

■ d. Add a heading to paragraph (b)(2)(ii) and revise paragraph (b)(2)(ii)(A).

■ e. Remove paragraph (b)(2)(ii)(B)

■ f. Redesignate paragraphs (b)(2)(ii)(C) and (D) as paragraphs (b)(2)(ii)(B) and (C).

■ g. Redesignate paragraph (b)(3) as paragraph (b)(2)(ii)(D).

■ h. Remove and reserve paragraph (b)(3).

■ i. In paragraph (b)(5)(i) introductory text remove the words “a single application” and add in their place “one application”, and remove the words “a single registration” and add in their place “a group registration”.

■ j. In paragraph (b)(5)(i)(F) remove the words “a single” and add in their place “the same”.

■ k. In paragraph (b)(5)(ii) introductory text remove the words “single registration” and add in their place “group registration”, remove the words “a single date” wherever they appears and add in their place “one date”, and remove the words “a single calendar” and add in their place “the same calendar”.

■ l. In paragraph (b)(5)(ii)(A) remove “(b)(2)” and add in its place “(b)(2)(ii)(A)”, and remove the word “electronically” and add in its place “electronically using the Standard Application”.

■ m. Revise paragraphs (c)(1) and (2).

■ n. Revise paragraph (c)(3).

The revisions and additions read as follows:

#### § 202.3 Registration for copyright.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Online applications.* An applicant may submit a claim through the Office’s electronic registration system using the Standard Application, the Single Application, or the applications designated in § 202.4.

(A) *Standard Application.* The Standard Application may be used to register a work under sections 408(a) and 409 of title 17, including a work by one author, a joint work, a work made for hire, a derivative work, a collective work, or a compilation. The Standard Application may also be used to register a unit of publication under paragraph (b)(4)(ii) of this section, or a sound recording and a literary, dramatic, or musical work under paragraphs (b)(1)(iv)(A) through (C) of this section.

#### (B) Single Application.

(1) The Single Application may be used only to register one work by one author. All of the content appearing in the work must be created by the same individual. The work must be owned by the author who created it, and the author and the claimant must be the same individual.

(2) The Single Application may be used to register one sound recording and one musical work, dramatic work, or literary work if the conditions set forth in paragraphs (b)(1)(iv)(A) through (C) and (b)(2)(i)(B)(1) of this section have been met.

(3) The following categories of works may *not* be registered using the Single Application: collective works, databases, websites, architectural works, choreographic works, works made for hire, works by more than one author, works with more than one owner, or works eligible for registration under § 202.4 or paragraphs (b)(4)(ii) or (b)(5), (6), or (9) of this section.

\* \* \* \* \*

(i) *Paper applications.* (A) An applicant may submit an application using one of the printed forms prescribed by the Register of Copyrights. Each form corresponds to one of the administrative classes set forth in paragraph (b)(1) of this section. These forms are designated “Form TX,” “Form PA,” “Form VA,” “Form SR,” and “Form SE.” These forms may be used to register a work under sections 408(a) and 409 of title 17, including a work by one author, a joint work, a work made for hire, a derivative work, a collective work, or a compilation. These forms may be used to register a unit of publication under paragraph (b)(4)(ii) of this section, and Form SR may be used to register a sound recording and a literary, dramatic, or musical work

<sup>7</sup> Applicants may obtain copies of the short forms upon request, but to do so they must contact the Public Information Office by telephone or mail.



under paragraph (b)(1)(iv)(A) through (C) of this section.

\* \* \* \* \*

(c) \* \* \*

(1) As a general rule, an application for copyright registration may be submitted by any author or other copyright claimant of a work, the owner of any exclusive right in a work, or the duly authorized agent of any such author, other claimant, or owner. A Single Application, however, may be submitted only by the author/claimant or by a duly authorized agent of the author/claimant, provided that the agent is identified in the application as the correspondent.

(2) All applications shall include the information required by the particular form, and shall be accompanied by the appropriate filing fee, as required in § 201.3(c) of this chapter, and the deposit required under 17 U.S.C. 408 and §§ 202.20, 202.21, or 202.4, as appropriate.

(3) All applications submitted for registration shall include a certification.

(i) As a general rule, the application may be certified by an author, claimant, an owner of exclusive rights, or a duly authorized agent of the author, claimant, owner of exclusive rights. A Single Application, however, may be certified only by the author/claimant or by a duly authorized agent of the author/claimant.

(ii) For online applications, the certification shall include the typed name of a party identified in paragraph (c)(3)(i) of this section. For paper applications, the certification shall include the typed or printed signature of a party identified in paragraph (c)(3)(i) of this section, and if the signature is handwritten it shall be accompanied by the typed or printed name of that party.

(iii) The declaration shall state that the information provided within the application is correct to the best of the certifying party's knowledge.

(iv) For online applications, the date of the certification shall be automatically assigned by the electronic registration system on the date the application is received by the Copyright Office. For paper applications, the certification shall include the month, day, and year that the certification was signed by the certifying party.

(v) An application for registration of a published work will not be accepted if the date of certification is earlier than the date of publication given in the application.

\* \* \* \* \*

■ 5. Amend § 202.16 by removing the words “Preregistration as a single work.” and add in their place “Unit of publication.”, removing the words “a

single application” and add in their place “one application”, removing the words “a single preregistration fee” and add in their place “one filing fee”, removing the words “a single unit” and add in their place “the same unit”, and removing the words “a single work” and add in their place “one work” in paragraph (c)(4).

## PART 211—MASK WORK PROTECTION

■ 6. The authority citation for part 211 continues to read as follows:

**Authority:** 17 U.S.C. 702, 908.

■ 7. Amend § 211.4 by revising paragraph (d) to read as follows:

### § 211.4 Registration of claims of protection in mask works.

\* \* \* \* \*

(d) *Registration for one mask work.* Subject to the exceptions specified in paragraph (c)(2) of this section, for purposes of registration on one application and upon payment of one filing fee, the following shall be considered one work:

\* \* \* \* \*

## PART 212—PROTECTION OF VESSEL DESIGNS

■ 8. The authority citation for part 212 continues to read as follows:

**Authority:** 17 U.S.C. chapter 13.

■ 9. Amend § 212.3 as follows:

■ a. In paragraph (f)(1), remove the words “a single make” and add in their place “the same make”, remove the words “a single application” and add in their place “one application”, remove the words “used for all designs” and add in their place “used to register all the designs”, and remove the words “each of the designs” and add in their place “each design”.

■ b. Revise paragraph (f)(2).

■ c. In paragraph (f)(4) remove the words “a single” and add in their place “one”.

The revision reads as follows:

### § 212.3 Registration of claims for protection of eligible designs.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(2) *One application.* Where one application for multiple designs is appropriate, a separate Form D–VH/CON must be used for each design beyond the first appearing on Form D–VH. Each Form D–VH/CON must be accompanied by deposit material identifying the design that is the subject of the Form D–VH/CON, and the deposit material must be attached to the Form

D–VH/CON. The Form D–VH and all the Form D–VH/CONs for the application must be submitted together.

\* \* \* \* \*

Dated: January 31, 2018.

**Sarang V. Damle,**

*General Counsel and Associate Register of Copyrights.*

[FR Doc. 2018–02204 Filed 2–5–18; 8:45 am]

BILLING CODE 1410–30–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R07–OAR–2018–0005; FRL–9974–15–Region 7]

### Approval of State Plans for Designated Facilities and Pollutants; Missouri; Hospital, Medical, and Infectious Waste Incineration (HMIWI) Units

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri state plan for designated facilities and pollutants developed under sections 111(d) and 129 of the Clean Air Act (CAA) that were requested by Missouri Department of Natural Resources (MDNR) in two separate submissions made on August 8, 2011 and on July 3, 2014. This proposed action will amend the state regulations referenced in the state's 111(d) plan applicable to existing Hospital, Medical, Infectious Waste Incinerators (HMIWI) operating in the state of Missouri. The state rule revisions we are proposing to approve with this action update HMIWI regulatory requirements for emission limits for waste management plans, training, compliance and performance testing, monitoring, and reporting and recordkeeping to be consistent with updates to Federal rules. These regulatory revisions proposed for approval into Missouri's state plan do not impact air quality. EPA's proposed approval of this revision is being done in accordance with the requirements of CAA section 111(d) as further described in the Technical Support Document that is included in this docket.

**DATES:** Comments must be received on or before March 8, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2018–0005, to <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://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Larry Gonzalez, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7041 or by email at [gonzalez.larry@epa.gov](mailto:gonzalez.larry@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is being addressed in this document?
- II. Background
- III. Analysis of State Submittal
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

**I. What is being addressed in this document?**

EPA is proposing to approve revisions to the regulations cited in Missouri’s state plan for HMIWI facilities and pollutants developed under sections 111(d) and 129 of the CAA that were requested by MDNR in two separate submissions made on August 8, 2011 and on July 3, 2014. This regulatory action is a revision to the State’s regulatory requirements for existing facilities and not new sources. The amended state rule limits emissions of metals, particulate matter, acid gases, organic compounds, carbon monoxide, and opacity. These rule revisions are necessary to ensure that the state regulations applicable to HMIWI are consistent with updates to Federal rules for HMIWI.

The August 8, 2011, submittal updates requirements for emission limits, waste management plans, training, compliance and performance testing, monitoring, and reporting and

recordkeeping requirements that apply to existing HMIWI facilities. Additionally, the state’s regulatory revisions also include the movement of definitions, previously located in the state rule that applies specifically to HMIWI (10 CSR 10–6.200) to a new regulatory section that contains definitions applicable to air rules in general (10 CSR 10–6.020).

On April 4, 2011 (76 FR 18407), and May 13, 2013 (78 FR 28051), EPA promulgated revisions to the Federal HMIWI guidelines that corrected errors made in calculating the emission standard for certain classes of HMIWI and pollutants, and eliminated the startup, shutdown, and malfunction (SSM) exemption. In addition, EPA revised the Federal Plan applicable to HMIWI sources that are not subject to an EPA approved and effective State plan and that meet additional criteria specified in 40 CFR part 62, subpart HHH. *See* 78 FR 28051. Missouri submitted a revision to their state plan on July 3, 2014, that addressed the above revisions promulgated by EPA.

In the July 3, 2014, request, Missouri is seeking approval of additional revisions made to 10 CSR 10–6.200 that revise the regulations to follow the revised Federal standards. In addition to updating the emission standard tables, the revisions remove language from the compliance and performance testing provisions applicable to HMIWI that provided an exemption to compliance with the emission limits during startup, shutdown and malfunction conditions. Additionally, the state revised the hierarchy of definitions to clearly state that the applicable definitions in the Code of Federal Regulations take precedence over those in 10 CSR 10–6.020, and revised the test methods references in the state rule to match how the test methods are referred to in the Federal HMIWI regulations.

This proposed action addresses both requests to amend the state plan by amending the underlying regulation referenced in the 111(d) plan applicable to HMIWI.

**II. Background**

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under

section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. EPA has codified emission guidelines and compliance times for existing HMIWI facilities at 40 CFR part 60, subpart Ce and has codified New Source Performance Standards (NSPS) for new HMIWI facilities at 40 CFR part 60, subpart Ec. EPA also finalized a Federal Plan applicable to HMIWI following promulgation of EGs. EPA finalized the Federal Plan applicable to HMIWI at 40 CFR part 62 subpart HHH on May 13, 2013 (discussed later). The Federal Plan is applied in states that fail to submit or revise a 111(d) plan in response to the promulgation of new or revised EGs.

The CAA requires that state regulatory agencies implement the EGs and compliance times using a state plan developed under sections 111(d) and 129 of the CAA. Section 111(d) establishes general requirements and procedures for state plan submittals for the control of designated pollutants. Section 129 requires emission guidelines to be promulgated for all categories of solid waste incineration units, including HMIWI units.

Section 129 mandates that all plan requirements be at least as protective and restrictive as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and Title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to EPA within one year after EPA’s promulgation of the emission guidelines and compliance times.

On June 15, 1999, MDNR submitted their original section 111(d) state plan for HMIWI to EPA for approval. This 1999 submission was to comply with the 40 CFR Subpart Ce Emission Guidelines (EGs) for existing HMIWI that were promulgated at 62 FR 48374. The EGs applied to existing HMIWI that commenced construction on or before June 20, 1996. MDNR adopted the EG requirements into state rule 10 CSR 10–6.200 “Hospital, Medical, Infectious Waste Incinerators,” which was effective on July 30, 1999. EPA approved Missouri’s June 15, 1999, section 111(d) state plan on August 19, 1999 (64 FR 45184). EPA approved a subsequent revision to Missouri’s 111(d) plan on October 12, 2001 (66 FR 52020).

On October 6, 2009, in accordance with sections 111 and 129 of the Act, EPA promulgated revised HMIWI EGs and compliance schedules for the control of emissions from HMIWI units. *See* 74 FR 51368. A HMIWI unit as defined in 40 CFR 60.51c as any device

that combusts any amount of hospital waste and/or medical/infectious waste. EPA codified these revised EGs at 40 CFR part 60, subpart Ce. Under section 129(b)(2) of the Act and the revised EGs at subpart Ce, states with subject sources must submit to EPA plans that implement the revised EGs.

On April 4, 2011, the EPA promulgated amendments to the NSPS and EGs, correcting inadvertent drafting errors in the NSPS and EGs and clarifying that compliance with the EGs must be expeditious if a compliance extension is granted. See 76 FR 18407.

On May 13, 2013, EPA promulgated a final rule amending the NSPS, emission guidelines, and establishing a revised Federal Plan for HMIWI which eliminated the SSM exemption. See 78 FR 28051.

Missouri's August 8, 2011, and July 3, 2014, submittals amend the state's plan for managing HMIWI facilities in accordance with Federal guidelines promulgated in 2009 through 2013. In response to the final rules promulgated by EPA in 2009 and 2013, EPA received two requests from MDNR to revise the state's 111(d) plan. EPA did not act to approve the first MDNR request to amend their 111(d) plan because of changes being made to the Federal emission guidelines due to a series of EPA proposals and final actions that would result in subsequent changes to submitted state plans. Following this series of proposals, final rules, and the correction notice published by EPA, MDNR submitted its July 2014 request to revise their 111(d) plan, and the EPA elected to process the MDNR requests together. Therefore this proposed action addresses components from both MDNR requests to approve revisions to the state's 111(d) plan applicable to HMIWI.

### III. Analysis of State Submittal

The state's request to amend the state plan (through the amendment of the underlying applicable regulations found at 10 CSR 10–6.200) were received on August 12, 2011, and July 7, 2014, in accordance with the requirements for adoption and submittal of state plans for designated facilities in 40 CFR part 60, subpart B. The revised plan establishes emission limits for existing HMIWI, and provides for the implementation and enforcement of those limits. Missouri's plan includes all documentation that all of these requirements have been met. The emission limits, testing, monitoring, reporting and recordkeeping requirements, and other aspects of the Federal rule have been adopted. Missouri rule 10 CSR 10–6.200 contains all applicable requirements.

The state provided evidence that it complied with the public notice and comment requirements of 40 CFR part 60 Subpart B. MDNR received two comments to their proposal to revise the HMIWI regulations at 10 CSR 10–6.200 in July of 2011. The first comment requested that MDNR replace table 1 in the 10–6.200 with table IB from the April 4, 2011 EPA final rule. In response, MDNR explained that table IB in the EPA rule applied only to new sources and the proposed MDNR table 1 applied to existing sources—and therefore the table would not be changed. The second comment expressed support for the proposed amendments and again no change was made as a result of the comment. In the second proposal to amend the HMIWI regulations, to remove the SSM exemption and match how the Federal HMIWI rules refer to EPA test methods, MDNR received no comments.

A technical support document analyzing the regulatory changes MDNR made to their HMIWI rules is included in this docket (EPA–R07–OAR–2018–0005). This review contains a line by line analysis of the revisions to Missouri rule 10 CSR 10–6.200 which are in accordance with the regulatory revisions made by EPA to 40 CFR part 60 subpart Ce, and part 62 subpart HHH.

### IV. What action is EPA taking?

Based on the rationale discussed above, EPA is proposing to approve Missouri's August 8, 2011, and July 3, 2014, submittals of its amended 111(d) plan for HMIWI.

### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is not subject to review under Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866. This action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601

*et seq.*). Because this rulemaking would approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rulemaking also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) because it proposes to approve a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

**List of Subjects in 40 CFR Part 62**

Environmental protection, Air pollution control, Administrative practice and procedure, Hospital, medical, and infectious incineration units, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 26, 2018.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 62 as set forth below:

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

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

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

**Subpart AA—Missouri**

- 2. Amend § 62.6358 by adding paragraph (e) to read as follows:

**§ 62.6358 Identification of plan.**

\* \* \* \* \*

(e) *Amended plan.* Submitted by the Missouri Department of Natural Resources on July 3, 2014 and August 8, 2011. The effective date of the amended plan is April 9, 2018.

[FR Doc. 2018–02339 Filed 2–5–18; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register

Vol. 83, No. 25

Tuesday, February 6, 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.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### Notice of Request for Extension, Without Change of the Currently Approved Information Collections; Comments Requested

**AGENCY:** U.S. Agency for International Development.

**ACTION:** Notice of public information collections.

**SUMMARY:** In an effort to reduce the paperwork burden, the U.S. Agency for International Development (USAID) invites the general public and other Federal agencies to take this opportunity to comment on the following continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the burden estimates; (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 the respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Submit comments on or before April 9, 2018.

**ADDRESSES:** Address all comments concerning this notice to Lyudmila Bond, Bureau for Management, Office of Acquisition & Assistance, Policy Division (M/OAA/P), Room 867, SA-44, Washington, DC 20523-2052. Submit comments, identified by title of the action and Regulation Identifier Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.

2. By Mail addressed to: USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867M, SA-44, Washington, DC 20523-2052.

**FOR FURTHER INFORMATION CONTACT:** M/OAA/P, Ms. Lyudmila Bond, Room 867, SA-44, NW, U.S. Agency for International Development, Washington, DC 20523-2053. Telephone (202) 567-4753.

#### SUPPLEMENTARY INFORMATION:

(1) *Type of Information Collections:* USAID is requesting the Office of Management and Budget (OMB) to extend the approval of the information collections under OMB No: OMB 0412-0520 for an additional three years. This submission does not propose any revisions to the information collections.

(2) *Title of the Form:* Contractor Employee Biographical Data Sheet.

(3) *Agency Form No.:* AID 1420-17.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The U.S. Agency for International Development (USAID) is authorized to contract with any corporation, international organization, or other body of persons in or outside of the United States in furtherance of the purposes and within limitations of the Foreign Assistance Act (FAA). The information collection requirements placed on the public are published in 48 CFR chapter 7, and include the following offeror or contractor reporting requirements, identified by the AIDAR section number, as specified in the AIDAR 701.106: 752.219-8, 752.245-70, 752.245-71(c)(2), 752.247-70(c), 752.7001, 752.7002(j), 752.7003, 752.7004 and 752.7032.

The pre-award requirements are based on a need for prudent management in the determination that an offeror either has or can obtain the ability to competently manage development assistance programs using public funds. The requirements for information collections during the post-award period are based on the need to prudently administer public funds.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* USAID estimates that 4,873 respondents will submit 36,467 submissions per year. The amount of time estimated to complete each response varies by item.

(6) *An estimate of the total public burden (in hours) associated with the collections:* 49,482.

(7) *An estimate of the total public burden (in cost) associated with the collections:* \$3,139,106. Note that while the burden for these information collections falls on the public, most of the submissions are reimbursable either directly or indirectly under Agency contracts, the cost for most of these collections falls under the federal cost burden. Thus, the estimated total public cost burden that is not reimbursed through Agency contracts is \$35,970.

**Mark Walther,**

*Acting Senior Procurement Executive.*

[FR Doc. 2018-02336 Filed 2-5-18; 8:45 am]

**BILLING CODE 6116-01-P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comments Request—Evaluation of the Independent Review of Applications Process for School Meal Programs

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection. The primary purpose of this study is to provide FNS with information about the effectiveness of the Independent Review of Applications (IRA) requirement that is conducted by local educational agencies in the school meal programs identified by the State agency as demonstrating high levels of, or a high risk for, administrative error in the certification of free and reduced price applications.

**DATES:** Written comments must be received on or before April 9, 2018.

**ADDRESSES:** Comments may be sent to: Jinee Burdg, MPP, RDN, LDN, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Jinee Burdg at 703-305-2744 or via email to [Jinee.Burdg@fns.usda.gov](mailto:Jinee.Burdg@fns.usda.gov).

Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of this information collection should be directed to Jinee Burd at 703-305-2744.

**SUPPLEMENTARY INFORMATION:** 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 of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Evaluation of the Independent Review Process.

*Form Number:* Not applicable.

*OMB Number:* 0584—NEW.

*Expiration Date:* Not yet determined.

*Type of Request:* New collection.

*Abstract:* USDA's Food and Nutrition Service (FNS) administers the National School Lunch Program (NSLP) and School Breakfast Program (SBP) at the Federal level. Collectively, these programs are referred to as the school meal programs. At the State level, State agencies, typically State Departments of Education or Agriculture, operate the programs through agreements with Local Education Agencies (LEAs). Based on federal regulations at 7 CFR part 210, LEAs have the legal authority to operate the NSLP and SBP, and certify and verify student eligibility for free and reduced-price meals. Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) and regulations at 7 CFR part 245 provide

the requirements related to determining free and reduced-price meal eligibility including certification and verification requirements and procedures.

Program integrity is a long-standing issue of concern for the school meal programs. Prior studies revealed administrative error rates associated with certification of eligibility for free and reduced price meals between 3.00 percent and 3.75 percent in School Year (SY) 2005–2006 for the NSLP and SBP. In an effort to reduce the administrative certification error rate, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA, Pub. L. 111–296) amended the Richard B. Russell National School Lunch Act (42 U.S.C 1769c (b)) to require an “independent review of applications” (IRA) of the eligibility determinations made via free and reduced price applications for certain LEAs. The provision is required of those LEAs that demonstrate high levels of, or a high risk for, administrative error associated with certification, verification, and other school meal program administrative processes, as determined by the State agency.

Program regulations at 7 CFR 245.11 provide two criteria to identify which LEAs must conduct the IRA: LEAs with 10 percent or more of certification/benefit issuances in error, as determined by the State agency during an administrative review (Criteria 1); and LEAs that the State agency considers at risk for certification error but were not selected under Criteria 1 (e.g., those with new electronic systems) (Criteria 2). LEAs must conduct the IRA before contacting the households to inform them of their eligibility status, and someone other than the original determining official must conduct it. LEAs first implemented the IRA requirement in SY 2014–2015.

FNS requires State agencies to submit an annual report on the results of the IRA process via Form FNS–874, *Local Educational Agency Second Review of Applications Report* (approved under OMB #0584–0594 Food Programs Reporting System (FPRS), expiration date September 30, 2019). The FNS–874 provides information on the results of the IRA for each LEA subject to the requirement, including the number of applications with changed eligibility determinations based on the IRA; the types of changes (e.g., free to reduced price); and reasons for changes (e.g., gross income calculation error, incomplete application error). Examination of the data received by FNS for SY 2014–2015 and SY 2015–2016 showed that few LEAs subject to IRA reported any changes in initial certification decisions as a result of

conducting the IRA. This was unexpected given that the primary criterion for identifying LEAs to complete the IRA process is a demonstrated error rate of 10 percent or more on Administrative Review.

FNS is conducting a study, the *Evaluation of the Independent Review Process*, to provide important information about the IRA process at the State and LEA levels, its results, and its overall effectiveness. The key research objectives are to: (1) Describe the IRA processes and policies at the State and LEA levels; (2) review household applications; and (3) assess the effectiveness of the IRA process and provide recommendations for best practices. This study will help FNS identify best practices and inform if changes may be needed to the process.

The study approach includes surveys, key informant interviews, and analyses of household applications. Using web surveys of the 54 State Child Nutrition Directors and key informant telephone interviews with food service directors of 30 LEAs that conducted IRA, the study will describe implementation and burden of the IRA provision at the State and LEA levels. The study will then select a subsample of 20 LEAs and collect and review a sample of household applications from those LEAs for two non-consecutive school years to help evaluate the process and effectiveness of this requirement.

*Affected Public:* State, Local or Tribal government (54 State government respondents and 0 non-respondents; 90 Local government respondents and 5 non-respondents). We estimate there will be 5 Local government non-respondents at the LEAs who will be contacted but choose not to participate. The burden for all respondents is broken down in the table below.

*Type of Respondents:* State Child Nutrition (CN) Agency Directors; LEA Directors and key staff.

*Estimated Number of Respondents:* The total estimated number of respondents is 155. This includes 3 LEA Directors and 3 LEA staff for cognitive testing. The main study includes 54 State Child Nutrition Agency Directors, 30 LEA Directors, 60 LEA key staff, and 5 non-respondents among the LEA Directors.

*Estimated Frequency of Response:* The overall frequency for the collection is 5.95. The estimated frequency of response is 6.08 annually for respondents and 2.0 annually for non-respondents.

*Estimated Total Annual Responses:* The total estimated number of responses for data collection is 922. This includes

912 for respondents and 10 for non-respondents.

*Estimated Time per Respondent:* The estimated time of response varies from 1 minute to 2 hours, depending on the respondent group and activity. We will cognitively test both the State Director Survey and the LEA interview guide. We will test the survey with FNS Regional Office staff who have frequent interaction with State agencies. We will not test the survey with State agency directors because they will ultimately take the survey. The cognitive tests of the interview guide with LEA Directors and key staff will take 10 minutes to schedule (0.167 hours), and 90 minutes (1.5 hours) to conduct.

The electronic study notification letters for the State CN Directors will take 3 minutes each (0.0501 hours), as will the electronic notification letter from the State CN Agency to the LEA Directors. The electronic notification from the study team to the LEA Directors, which will include a request to schedule the interview, will take 10

minutes (0.167 hours). Scheduling interviews with LEA key staff will also take 10 minutes (0.167 hours). The State Director Survey will take 1 hour and 14 minutes from sending the online survey link to the final thank you note (1 hour to complete the online survey; 1 minute each (0.0167 hours) for the electronic invitation with a link to the survey, the two electronic reminder letters to non-respondents, and one electronic thank you letter; 10 minutes (0.1670 hours) for a phone call to the State CN Directors who have not submitted the survey within 5 days of the deadline). The study team will send 30 State CN Directors a notification letter about the selection of LEAs for in-depth telephone interviews, which will take 3 minutes (0.0501 hours). Those Directors will send a letter that the study team has drafted to the selected LEAs to notify them, which will take 10 minutes (0.167 hours). The in-depth telephone interview for LEA Directors and LEA key staff will take 90 minutes (1.5

hours), and the electronic interview follow up and thank you note will take 10 minutes (0.167 hours). The collection of household applications will take 3 minutes (0.0501 hours) for the initial electronic request sent to the LEA Directors, two 30-minute phone calls (0.5 hours each) with the Director and key staff to discuss sampling and data collection, 2 hours for two LEA staff to compile and securely transmit two years of applications, and 1 minute (0.0167 hours) for the electronic thank you note. The average estimated time per response across all respondents is 0.425 hours. The overall average response across all of the respondents (including non-respondents) in the entire collection is 0.421 hours.

*Estimated Total Annual Burden on Respondents:* The total public reporting burden for this collection of information is estimated at 388.6 hours (annually). The estimated burden for each type of respondent is provided in the table below.

Respondent category	Type of respondents	Instruments	Sample size	Responsive					Non-Responsive					Grand total annual burden estimate (hours)
				Number of respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	Number of non-respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	
State Child Nutrition (CN) Agency.	State Director .....	Electronic Study Notification Letter from FNS ....	54	54	1	54	0.0501	2.7	0	0	0	0.000	0.0	2.7
		Electronic Study Notification Letter from Westat .....	54	54	1	54	0.0501	2.7	0	0	0	0.000	0.0	2.7
		Electronic Letter with Link to Online Survey .....	54	54	1	54	0.0167	0.9	0	0	0	0.000	0.0	0.9
		Electronic Survey Reminder Letter #1 .....	30	30	1	30	0.0167	0.5	0	0	0	0.000	0.0	0.5
		Electronic Survey Reminder Letter #2 .....	15	15	1	15	0.0167	0.3	0	0	0	0.000	0.0	0.3
		Phone Calls to Nonrespondent State Directors .....	5	5	1	5	0.1670	0.8	0	0	0	0.000	0.0	0.8
		Online survey .....	54	54	1	54	1.0000	54.0	0	0	0	0.000	0.0	54.0
		Electronic thank you note following survey completion. ....	54	54	1	54	0.0167	0.9	0	0	0	0.000	0.0	0.9
		Electronic Notification Letter from Westat regarding LEA selection. ....	30	30	1	30	0.0501	1.5	0	0	0	0.000	0.0	1.5
		Electronic Letter from State CN Agency to Selected LEAs. ....	30	30	1	30	0.1670	5.0	0	0	0	0.000	0.0	5.0
State Government Sub-Total. Local Education Agency (LEA).	LEA Director .....	.....	54	54	7.04	380	0.1824	69.3	0	0.00	0	0.0000	0.0	69.3
		Scheduling Cognitive Test of Interview Guide ...	3	3	1	3	0.1670	0.5	0	0	0	0.000	0.0	0.5
		Cognitive Test of Interview Guide .....	3	3	1	3	1.5000	4.5	0	0	0	0.000	0.0	4.5
		Electronic Study Notification Letter from State CN Agency. ....	35	30	1	30	0.0501	1.5	5	1	5	0.0501	0.3	1.8
		Electronic Study Notification Letter from Westat, incl. Request to Schedule Phone Interview. ....	35	30	1	30	0.1670	5.0	5	1	5	0.1670	0.8	5.8
		In-Depth Phone Interview (includes consent) ...	30	30	1	30	1.5000	45.0	0	0	0	0.0000	0.0	45.0
		In-Depth Interview Follow Up and Thank You Note. ....	30	30	1	30	0.1670	5.0	0	0	0	0.0000	0.0	5.0
		Electronic Letter Request for Sample of Household Applications. ....	20	20	1	20	0.0501	1.0	0	0	0	0.0000	0.0	1.0
		Phone Call to Discuss Sampling and Collection of Household Applications. ....	20	20	2	40	0.5000	20.0	0	0	0	0.0000	0.0	20.0
		Scheduling Cognitive Test of Interview Guide ...	3	3	1	3	0.1670	0.5	0	0	0	0.000	0.0	0.5
Local Government Sub-Total.	LEA Key Staff .....	Cognitive Test of Interview Guide .....	3	3	1	3	1.5000	4.5	0	0	0	0.000	0.0	4.5
		Scheduling the In-Depth Phone Interview .....	60	60	1	60	0.1670	10.0	0	0	0	0.0000	0.0	10.0
		In-Depth Phone Interview (includes consent) ...	60	60	1	60	1.5000	90.0	0	0	0	0.0000	0.0	90.0
		In-Depth Phone Interview Follow Up and Thank You Note. ....	60	60	1	60	0.1667	10.0	0	0	0	0.0000	0.0	10.0
		Phone Call to Discuss Sampling and Collection of Household Applications. ....	40	40	2	80	0.5000	40.0	0	0	0	0.0000	0.0	40.0
		Collection of Sample of Household Applications	40	40	1	40	2.0000	80.0	0	0	0	0.0000	0.0	80.0
		Electronic Thank You Note for Household Applications. ....	40	40	1	40	0.0167	0.7	0	0	0	0.0000	0.0	0.7
		.....	101	96	5.54	532	0.5981	318.2	5	2.00	10	0.1086	1.1	319.3
		.....	155	150	6.08	912	0.4249	387.5	5	2.00	10	0.1086	1.1	388.6
		.....												

Footnote: Annual burden hours are rounded to the nearest tenth.

Dated: January 25, 2018.

**Brandon Lipps,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2018–02379 Filed 2–5–18; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

#### Notice of Request for Revision of a Currently Approved Information Collection

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agricultural Service (FAS) intends to request a revision for a currently approved information collection procedure for entry of specialty sugars into the United States.

**DATES:** Comments should be received on or before April 9, 2018 to be assured of consideration.

**ADDRESSES:** We invite you to submit comments as requested in this document. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail, hand delivery, or courier:* William Janis, International Economist, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Ave. SW, Washington, DC 20250–1021;

- *Email:* [William.Janis@fas.usda.gov](mailto:William.Janis@fas.usda.gov);

- *Telephone:* (202) 720–2194.

Comments will be available for inspection online at <http://www.regulations.gov> and at the mail address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Persons with disabilities who require an alternative means for communication of information (e.g., Braille, large print, audiotope, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

#### FOR FURTHER INFORMATION CONTACT:

William Janis, (202) 720–2194, [William.Janis@fas.usda.gov](mailto:William.Janis@fas.usda.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Specialty Sugar Certificate Application.

*OMB Number:* 0551–0025.

*Expiration Date of Approval:* June 30, 2018.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* The quota system established by Presidential Proclamation 4941 of May 5, 1982, prevented imports of certain sugars used for specialized purposes which originated in countries without quota allocations. Therefore, the regulation at 15 CFR part 2011 (Allocation of Tariff-Rate Quota on Imported Sugars, Syrups and Molasses, subpart B—Specialty Sugar) established terms and conditions under which certificates are issued permitting U.S. importers holding certificates to enter specialty sugars from specialty sugar source countries under the sugar tariff-rate quotas (TRQ). Nothing in this subpart affects the ability to enter specialty sugars at the over-TRQ duty rates. Applicants for certificates for the import of specialty sugars must supply the information required by 15 CFR 2011.205 to be eligible to receive a specialty sugar certificate. The specific information required on an application must be collected from those who wish to participate in the program in order to grant specialty sugar certificates, ensure that imported specialty sugar does not disrupt the current domestic sugar program, and administer the issuance of the certificates effectively.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 2 hours per response.

*Respondents:* Importers.

*Estimated Number of Respondents:* 60.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 120 hours.

*Request for Comments:* We are requesting comments on all aspects of this information collection to help us to: (1) Evaluate whether the collection of information is necessary for the proper performance of FAS's functions, including whether the information will have practical utility; (2) Evaluate the accuracy of FAS's estimate of burden 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. Copies of this information collection can be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690–1578 or email at [Connie.Ehrhart@fas.usda.gov](mailto:Connie.Ehrhart@fas.usda.gov).

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

#### E-Government Act Compliance

FAS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Dated: January 19, 2018.

**Bobby Richey Jr.,**

*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 2018–02266 Filed 2–5–18; 8:45 am]

**BILLING CODE 3410–10–P**

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

#### Notice of Request for Revision of a Currently Approved Information Collection

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agricultural Service (FAS) intends to request a revision for a currently approved information collection procedure for Sugar Import Licensing Programs.

**DATES:** Comments should be received on or before April 9, 2018 to be assured of consideration.

**ADDRESSES:** We invite you to submit comments as requested in this document. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail, hand delivery, or courier:* William Janis, International Economist, Import Policies and Programs Division,



Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Ave. SW, Washington, DC 20250-1021;

• *Email:* William.Janis@fas.usda.gov; or

• *Telephone:* (202) 720-2194.

Comments will be available for inspection online at <http://www.regulations.gov> and at the mail address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Persons with disabilities who require an alternative means for communication of information (e.g., Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720-2600 (voice and TDD).

**FOR FURTHER INFORMATION CONTACT:**

William Janis, (202) 720-2194, William.Janis@fas.usda.gov.

**SUPPLEMENTARY INFORMATION:**

*Title:* Sugar Imported for Export as Refined Sugar or as a Sugar-Containing Product, or used in the Production of Certain Polyhydric Alcohols.

*OMB Number:* 0551-0015.

*Expiration Date of Approval:* June 30, 2018.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* The primary objective of the Sugar Import Licensing Program is to permit entry of raw cane sugar, unrestricted by the quantitative limit established by the sugar tariff-rate quota, for re-export in refined form or in a sugar containing product or for the production of certain polyhydric alcohols. These programs are in use by as many as 250 licensees currently eligible to participate. Under 7 CFR part 1530, licensees are required to submit the following: (1) "Application for a license" information required for participation as set forth in section 1530.104; (2) "Regular reporting" of import, export, transfer, or use for charges and credits to licenses under section 1530.109; and (3) "Miscellaneous submission" of bonds or letters of credit under section 1530.107, appeals to determinations by the licensing authority under section 1530.112, or requests to the licensing authority for waivers under section 1530.113.

In addition, each participant must maintain records on all program reports as set forth in section 1530.110. The information collected is used by the licensing authority to manage, plan, evaluate, and account for program activities. The reports and records are required to ensure the proper operations of these programs.

*Estimate of Burden:* (1) "Application for a license" would require 20 hours per response; (2) "Regular reporting" would require between 10 and 15 minutes per transaction with the number of transactions varying per respondent; and (3) "miscellaneous submission" would require between 1 to 2 hours per bond or letter of credit, 2 to 10 hours per waiver request, and 10 to 100 hours per appeal.

*Respondents:* Sugar refiners, manufacturers of sugar containing products, and producers of polyhydric alcohol.

*Estimated Number of Respondents:* 270.

*Estimated Number of Responses per Respondent:* New/Renew License: 1; Regular reporting: 75 transactions, total; Miscellaneous: Bonds/letters of credit: 1; Waiver requests: 1; Appeals: 1.

*Estimated Total Burden Hours on Respondents:* 1,653 hours.

*Request for Comments:* We are requesting comments on all aspects of this information collection to help us to: (1) Evaluate whether the collection of information is necessary for the proper performance of FAS's functions, including whether the information will have practical utility; (2) Evaluate the accuracy of FAS's estimate of burden 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. Copies of this information collection can be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690-1578 or email at [Connie.Ehrhart@fas.usda.gov](mailto:Connie.Ehrhart@fas.usda.gov).

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

**E-Government Act Compliance**

FAS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Dated: January 29, 2018.

**Bobby Richey, Jr.,**

*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 2018-02267 Filed 2-5-18; 8:45 am]

**BILLING CODE 3410-10-P**

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**Natural Resources Conservation Service**

**[Docket No. NRCS-2018-0001]**

**Notice of Request for an Extension of Existing Information Collection Package**

**AGENCY:** Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC), United States Department of Agriculture (USDA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces that NRCS will request an extension for a currently approved information collection for long-term contracting forms.

**DATES:** Comments must be received 60 days after publication in the **Federal Register** to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** Kim Berns, Easement Programs Division, Room 5241-S, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250; telephone (202) 720-5074.

**SUPPLEMENTARY INFORMATION:**

*Title:* Long-Term Contracting.

*OMB Number:* 0578-0013.

*Expiration Date of Approval:* 3 years from approval date.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* The primary objective of NRCS is to work in partnership with the American people and the farming and ranching community to protect, conserve, and sustain our Nation's natural resources on privately owned land. The purpose of the long-term contracting information collection is to allow for programs to provide Federal technical and financial cost-sharing assistance through long-term contracts to eligible producers, landowners, and entities. These long-term contracts provide for making land use changes and installing conservation measures and practices to protect, conserve, develop, and use the soil, water, and

related natural resources on private lands. Under the terms of the agreement, the participant agrees to apply, or arrange to apply the conservation treatment specified in the conservation plan. In return for this agreement, Federal financial assistance payments are made to the land user, or third party, upon successful application of the conservation treatment. Additionally, NRCS purchases easements for the long

term protection of the property and provides for the protection and management of the property for the life of the easement.

The information collected through this package is used by NRCS to ensure the proper use of program funds. The conservation programs in this information collection that are subject to the requirements of the Paperwork Reduction Act are listed in Table A. No

changes or adjustments are proposed at this time; this notice is limited to the request for an extension of the currently approved information collection package used by NRCS for long-term contracting for the programs listed in Table A. Table B shows the burden for those programs subject to the requirements of the Paperwork Reduction Act.

TABLE A—CONSERVATION PROGRAMS SUBJECT TO THE REQUIREMENTS OF THE PAPERWORK REDUCTION ACT

Program	Description
Emergency Conservation Program (ECP) (7 CFR part 701).	USDA Farm Service Agency's ECP provides emergency funding and technical assistance for farmers and ranchers to rehabilitate farmland damaged by natural disasters and for carrying out emergency water conservation measures in periods of severe drought. Funding for ECP is appropriated by Congress.
Emergency Watershed Program (EWP) (7 CFR part 624).	The EWP was initiated in 1950 and is administered by NRCS. It provides technical and financial assistance to local institutions for the removal of storm and flood debris from stream channels and for the restoration of stream channels and levees to reduce the threat to life and property. The program also provides for establishing permanent easements in floodplains with private landowners.
Healthy Forests Reserve Program (HFRP) (7 CFR part 625).	HFRP is a voluntary program established for the purpose of restoring and enhancing forest ecosystems to: (1) Promote the recovery of threatened and endangered species; (2) improve biodiversity; and (3) enhance carbon sequestration. The HFRP was signed into law as part of the Healthy Forests Restoration Act of 2003 and amended by the 2008 Act. The Agricultural Act of 2014 made minor changes to HFRP land eligibility and funding.
Resource Conservation and Development Program (RC&D).	The RC&D was initiated in 1962 and was administered by NRCS. Through this program, NRCS assisted multi-county areas in enhancing conservation, water quality, wildlife habitat, recreation, and rural development. The program provided technical and limited financial assistance for the planning and installation of approved projects.
Watershed Protection and Flood Prevention Program (WPFPP) (7 CFR part 622).	The WPFPP, otherwise known as P.L. 566, was initiated in 1954 and is administered by NRCS. It assists State and local units of government in flood prevention, watershed protection, and water management. Part of this effort involves the establishment of conservation practices on private lands to reduce erosion, sedimentation, and runoff.

TABLE B—BURDEN FOR REQUIRED PROGRAMS UNDER THE PAPERWORK REDUCTION ACT

Form	Purpose	Program(s)	* Number submitted annually
AD-1153 .....	Application .....	EWP, WPFPP, HFRP .....	750; Estimated time per participant is .30 per response.
AD-1154 .....	Contract or Agreement .....	EWP, HFRP .....	150; Estimated time per participant is .37 per response.
AD-1155 AD-1155A .....	Schedule of Practices/Costs and signature sheet.	EWP, WPFPP, HFRP .....	300; Estimated time per participant is .373 per response.
AD-1156 .....	Schedule Modification .....	EWP, WPFPP, HFRP .....	25; Estimated time per participant is .375 per response.
AD-1157 .....	Option Agreement to Purchase ....	EWP, HFRP .....	170; Estimated time per participant is .40 per response.
AD-1157A .....	Option Agreement to Purchase Amendment.	EWP, HFRP .....	170; Estimated time per participant is .40 per response.
AD-1158 .....	Subordination Agreement and Limited Lien Waiver.	EWP, HFRP .....	100; Estimated time per participant is .495 per response.
AD-1159 .....	Notice of Intent to Continue .....	Not used by any non-exempt programs.	
AD-1160 .....	Compatible Use Authorization .....	EWP, HFRP .....	200; Estimated time per participant is .40 per response.
AD-1161 .....	Application for Payment .....	CTA, WPFPP, HFRP .....	200; Estimated time per participant is .30 per response.
NRCS-CPA-68 .....	Conservation Plan .....	EWP, WPFPP, HFRP .....	2,700; Estimated time per participant is .75 per response.
NRCS-LTP-13 .....	Status/Contract Review .....	EWP, HFRP .....	250; Estimated time per participant is .375 per response.
NRCS-LTP-20, NRCS-CPA-260	Warranty Easement Deed, Conservation Easement Deed.	HFRP .....	170; Estimated time per participant is .40 per response.
NRCS-LTP-70 .....	Agreement for the Purchase of Conservation Easement.	EWP .....	50; Estimated time per participant is .69 per response.
NRCS-LTP-80 .....	Agreement for the Purchase of Conservation Easement..	EWP, HFRP .....	120; Estimated time per participant is .69 per response.
NRCS-LTP-151 .....	Contract Violation Notification .....	EWP, HFRP .....	20; Estimated time per participant is .495 per response.

TABLE B—BURDEN FOR REQUIRED PROGRAMS UNDER THE PAPERWORK REDUCTION ACT—Continued

Form	Purpose	Program(s)	* Number submitted annually
NRCS-LTP-152 .....	Transfer Agreement .....	EWP, HFRP .....	5; Estimated time per participant is .495 per response.
NRCS-LTP-153 .....	Agreement Covering Non-Compliance With Provisions of the Contract.	EWP, HFRP .....	10; Estimated time per participant is 1.5 per response.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.30 to 1.5 hours per response.

*Type of Respondents:* Program participants.

*Estimated Number of Respondents:* 5,390.

*Estimated Number of Responses:* 5,390.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3,058.70 hours.

Comments are invited on: (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 including the validity of the methodology and assumptions used, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Kim Berns, Natural Resources Conservation Service, Easement Programs Division, 1400 Independence Ave. SW, Room 5241-S, Washington, DC 20250. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Signed this day of January 18, 2018, in Washington, DC.

**Leonard Jordan,**

*Acting Chief, Natural Resources Conservation Service and Vice President, Commodity Credit Corporation.*

[FR Doc. 2018-02329 Filed 2-5-18; 8:45 am]

**BILLING CODE 3410-16-P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Georgia Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Georgia (State) Advisory Committee will hold a meeting on Tuesday, February 27, 2018 for hearing testimony regarding the issue of the Olmstead Decision, Civil Rights of Persons with Disabilities in Georgia.

**DATES:** The meeting will be held on Tuesday, February 27, 2019 at 9:30 a.m.

**ADDRESSES:** The Shepherd Center, 2020 Peachtree Road, Atlanta, Georgia 30309.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hinton, DFO, at [jhinton@usccr.gov](mailto:jhinton@usccr.gov) or 404-562-7706.

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public, and will take place at The Shepherd Center, 2020 Peachtree Road, Atlanta, Georgia 30309. In addition, members of the public may submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth St., Suite 16T126, Atlanta, Georgia 30303. They may also be faxed to the Commission at (404) 562-7005 or emailed to Jeff Hinton at [jhinton@usccr.gov](mailto:jhinton@usccr.gov). Persons who desire additional information may contact the USCCR, Southern Regional Office at (404) 562-7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via [www.facadatabase.gov](http://www.facadatabase.gov) under the Commission on Civil Rights, Georgia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the

Southern Regional Office at the above email or street address.

### Agenda

9:30 a.m. Introductions  
9:45–10:55 a.m. Panel 1  
11:00–12:05 a.m. Panel 2  
12:10–1:15 p.m. Panel 3  
1:15 p.m.–2:00 p.m. Lunch Break  
2:00–3:30 p.m. Panel 4  
3:35–4:30 p.m. Panel 5  
4:35–4:55 p.m. Public Comment and Community Testimonials  
4:55 p.m. Adjourn

Dated: January 31, 2018.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2018-02262 Filed 2-5-18; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Census Bureau

#### Proposed Information Collection; Comment Request; Quarterly Survey of Plant Capacity Utilization

**AGENCY:** U.S. Census Bureau, 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:** To ensure consideration, written comments must be submitted on or before April 9, 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 [PRAComments@doc.gov](mailto:PRAComments@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mary Susan Bucci, U.S.

Census Bureau, Economic Reimbursable Surveys Division, Room 6H047, Washington, DC 20233, (301) 763-4639 (or via the internet at [Mary.Susan.Bucci@census.gov](mailto:Mary.Susan.Bucci@census.gov)).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Census Bureau plans to request an extension of the current OMB clearance for the Quarterly Survey of Plant Capacity Utilization (SPC). The SPC is conducted quarterly, collecting from manufacturing plants and publishers, the value of actual production, the value of production that could have been achieved if operating at "full production" levels, and the value of production that could have been achieved if operating at "national emergency" levels. The survey also collects data on work patterns by shift. These data include hours in operations, production workers, and plant hours worked.

The primary sponsors of this collection and users of these data are the Federal Reserve Board (FRB) and the Defense Logistics Agency (DLA). The FRB uses these data in several ways. First, the capital workweek data is used as an indicator of capital use in the estimation of monthly output (industrial production). Second, the workweek data is used to improve the projections of labor productivity that are used to align industrial production (IP) with comprehensive benchmark information in the Manufacturing Sector of the Economic Census and the Annual Survey of Manufactures. Third, the utilization rate data assists in the assessment of recent changes in IP, as most of the high-frequency movement in utilization rates reflect production changes rather than capacity changes. Fourth, the time series of utilization rate data for each industry, in combination with the FRB IP data, is used to estimate current and historical measures of capacity consistent with the FRB production measures. The DLA uses these data to assess readiness to meet demand for goods under selected national emergency scenarios.

##### II. Method of Collection

The Census Bureau mails letters to respondents instructing them how to report electronically. Companies are asked to respond within 20 days of the initial mailing. The due date will be imprinted at the top of the letter. A reminder email is sent a week before the due date to delinquent respondents. Letters encouraging participation are mailed to companies that have not responded by the designated due date. A final email is sent to delinquent

respondents with information for reporting online. Lastly, we conduct a telephone follow-up.

##### III. Data

*OMB Control Number:* 0607-0175.

*Form Number(s):* MQ-C2.

*Type of Review:* Regular submission.

*Affected Public:* Manufacturing and publishing plants.

*Estimated Number of Respondents:* 7,500 per quarter.

*Estimated Time per Response:* 2 hours and 5 minutes.

*Estimated Total Annual Burden Hours:* 62,500.

*Estimated Total Annual Cost to Public:* \$0.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C. Section 8(b); 50 U.S.C. Section 98, et seq; 12 U.S.C. Section 244.

##### 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.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer.*

[FR Doc. 2018-02307 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-07-P**

#### DEPARTMENT OF COMMERCE

##### Foreign-Trade Zones Board

[Order No. 2046]

##### Re-Establishment and Expansion of Site—Foreign-Trade Zone 276, Kern County, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Foreign-Trade Zones (FTZ) Act provides for ". . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

*Whereas*, Kern County, California, grantee of Foreign-Trade Zone 276, submitted an application to the Board (FTZ Docket B-75-2017, docketed November 21, 2017) for authority to re-establish FTZ 276 adjacent to the Los Angeles/Long Beach U.S. Customs and Border Protection (CBP) port of entry, expand Site 2 and remove Sites 1 and 3;

*Whereas*, notice inviting public comment was given in the **Federal Register** (82 FR 56213-56214, November 28, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore*, the Board hereby orders:

The application to re-establish FTZ 276 adjacent to the Los Angeles/Long Beach CBP port of entry is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13 and to the Board's standard 2,000-acre activation limit for the zone.

Dated: January 31, 2018.

**Christian B. Marsh,**

*Deputy Assistant Secretary for Enforcement & Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2018-02317 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-570-898]

##### Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On July 28, 2017, the Department of Commerce (Commerce) published its *Preliminary Results* of the

administrative review of the antidumping duty order on chlorinated isocyanurates from the People's Republic of China (China). The period of review (POR) is June 1, 2015, through May 31, 2016. This administrative review covers three producers/exporters: (1) Heze Huayi Chemical Co. Ltd. (Heze Huayi); (2) Hebei Jiheng Chemical Co. Ltd. (Jiheng); and (3) Juancheng Kangtai Chemical Co. Ltd. (Kangtai). We invited parties to comment on our *Preliminary Results*. Based on our analysis of comments received, we made no changes to our margin calculations. The final dumping margins for this review are listed in the "Final Results" section below.

**DATES:** Applicable February 6, 2018.

**FOR FURTHER INFORMATION CONTACT:** Sean Carey, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3964.

## Background

These final results of administrative review cover three producer/exporters of the subject merchandise: (1) Heze Huayi; (2) Jiheng; and (3) Kangtai. We determine that Heze Huayi and Kangtai have demonstrated their eligibility for a separate rate, and have made sales in the United States at prices below normal value (NV). With respect to Jiheng, we continue to treat this company as part of the China-wide entity because it has not demonstrated its eligibility for a separate rate.

On July 28, 2017, Commerce published its *Preliminary Results*.<sup>1</sup> From September 26 through September 29, 2017, Commerce verified the questionnaire responses of Kangtai.<sup>2</sup> On November 21, 2017, Commerce fully extended the deadline for the final results until January 24, 2018.<sup>3</sup>

On November 29, 2017, Bio-lab, Inc., Clearon Corp. and Occidental Chemical Corp. (collectively, the petitioners), and the respondents Heze Huayi and

Kangtai, submitted case briefs.<sup>4</sup> On December 6, 2017, the petitioners and the respondents both submitted rebuttal briefs.<sup>5</sup> We met with the petitioners on December 14, 2017, and with the respondents on January 8, 2018, to address issues raised in the case and rebuttal briefs.<sup>6</sup> Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results is now January 29, 2018.<sup>7</sup>

## Scope of the Order

The products covered by the order are chloro isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive. For a full description of the scope of the order, see Issues and Decision Memorandum.<sup>8</sup>

<sup>4</sup> See Petitioners' Case Brief, "Case Brief of Bio-lab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated November 30, 2017; Respondents' Case Brief, "Case Brief of Juancheng Kangtai Chemical Co., Ltd. ('Kangtai'), Heze Huayi Chemical Co., Ltd. ('Heze Huayi')," dated November 29, 2017.

<sup>5</sup> See Petitioners' Rebuttal Brief, "Rebuttal Brief of Biolab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated December 6, 2017; Respondents' Rebuttal Brief, "Chlorinated Isocyanurates from the People's Republic of China: Rebuttal Brief," dated December 6, 2017.

<sup>6</sup> See Memorandum, "Ex-Parte Meeting with Counsel for Bio-Lab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated December 22, 2016; Memorandum, "Ex-Parte Meeting with Counsel for Heze Huayi Chemical Co. Ltd. and Juancheng Kangtai Chemical Co., Ltd.," dated January 8, 2018.

<sup>7</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 24, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. Because this deadline falls on the weekend, the next business day is Monday, January 29, 2018.

<sup>8</sup> See Memorandum, "Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China; 2014-2015," issued concurrently with this notice for a complete description of the scope of the Order.

## Separate Rates

In the *Preliminary Results*, we found that evidence provided by Heze Huayi and Kangtai supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies.<sup>9</sup> We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsidering these determinations with respect to Heze Huayi and Kangtai. Therefore, for the final results, we continue to find that Heze Huayi and Kangtai are eligible for separate rates.

With respect to Jiheng, however, we found that Jiheng did not respond to Commerce's questionnaire even though it timely submitted a separate rate certification. We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsidering this determination with respect to Jiheng. Therefore, for the final results, we continue to find that Jiheng is ineligible for separate rate. As such, we determine that Jiheng is part of the China-wide entity.<sup>10</sup>

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and electronic

<sup>9</sup> See *Preliminary Results*, and accompanying Preliminary Decision Memorandum, at 3-5.

<sup>10</sup> Because no interested party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, we did not conduct a review of the China-wide entity. Thus, the rate for the China-wide entity is not subject to change as a result of this review. 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, 65969-70 (November 4, 2013).

<sup>1</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 35183 (July 28, 2017) (*Preliminary Results*).

<sup>2</sup> See Memorandum, "Verification of the Questionnaire Responses of Juancheng Kangtai Chemical Co., Ltd. in the Antidumping Review of Chlorinated Isocyanurates from the People's Republic of China," dated November 17, 2017.

<sup>3</sup> See Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated November 21, 2017.

versions of the Issues and Decision Memorandum are identical in content.

### Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary*

*Results*, we have made no revisions to the margin calculations for all three companies.

### Final Results of Administrative Review

As explained above, we find Jiheng to be part of the China-wide entity. The

rate previously established for the China-wide entity is 285.63 percent.<sup>11</sup> The weighted-average dumping margins for Heze Huayi and Kangtai in the instant administrative review are as follows:

Exporter	Weight-average dumping margin percentage
Heze Huayi Chemical Co., Ltd .....	16.06
Juancheng Kangtai Chemical Co., Ltd .....	24.82

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).<sup>12</sup> Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.<sup>13</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (i.e., 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.<sup>14</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>15</sup>

Pursuant to Commerce's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, Commerce will instruct CBP to liquidate such

entries at the China-wide entity rate. Additionally, if Commerce determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the China-wide entity rate.<sup>16</sup>

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed China and non-China exporters not listed above that have separate rates, the cash deposit rate will continue to be the existing producer/exporter-specific rate published for the most recent period; (3) for all China exporters of subject merchandise that have not been found to be eligible for a separate rate, the cash deposit rate will be the China-wide rate of 285.63 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Disclosure

We intend to disclose the calculations performed regarding these final results

within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and that subsequent assessment of doubled antidumping duties.

### Administrative Protective Order Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h).

<sup>11</sup> For an explanation on the derivation of the China-wide rate, see *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502, 24505 (May 10, 2005).

<sup>12</sup> See 19 CFR 351.212(b)(1).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> See 19 CFR 351.106(c)(2).

<sup>16</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Dated: January 29, 2018.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix—List of Topics Discussed in the Issues and Decision Memorandum

Summary

Background

Scope of the Order

Discussion of the Issues

Comment 1: Use of Kangtai's U.S. Export Sales to the One Customer Operating From a Third Country (Company X)

Comment 2: Changes in Heze Huayi's Labor Usage Rates

Comment 3: By-Product Offset for Ammonium Sulfate

Comment 4: Adjustment To Export Price for Free-of-Charge Packing Materials

Comment 5: Alternative Mexican Surrogate Values

A. Alternative Mexican Financial Statements

B. Mexican Surrogate Value for Sodium Hydroxide (Caustic Soda)

C. Whether To Use INEGI's EMIM Mexican Labor Data Instead of ILO Labor Rate

Comment 6: Assigning the NME-Entity Rate to Jiheng

Recommendation

[FR Doc. 2018-02315 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-853]

### Citric Acid and Certain Citrate Salts From Canada: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Canada. The period of review (POR) is May 1, 2016, through April 30, 2017. The review covers one producer/exporter of the subject merchandise, Jungbunzlauer Canada Inc. (JBL Canada). We preliminarily determine that sales of subject merchandise by JBL Canada were not made at prices below normal value (NV). Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable February 6, 2018.

#### FOR FURTHER INFORMATION CONTACT:

Renato Barreda or George Ayache, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-0317 or (202) 482-2623, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Scope of the Order

The merchandise covered by the *Order*<sup>1</sup> is citric acid and certain citrate salts from Canada. The product is currently classified under subheadings 2918.14.0000, 2918.15.1000, 2918.15.5000, and 3824.90.9290 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.<sup>2</sup>

#### Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and 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 at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in

<sup>1</sup> See *Citric Acid and Certain Citrate Salts From Canada and the People's Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009) (the *Order*).

<sup>2</sup> A full description of the scope of the *Order* is contained in the memorandum to 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, from James Maeder, Senior Director performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts From Canada; 2016–2017" (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

#### Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that a weighted-average dumping margin of 0.00 percent exists for JBL Canada for the period May 1, 2016, through April 30, 2017.

#### Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.<sup>3</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>4</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.<sup>5</sup>

All submissions to Commerce must be filed electronically using ACCESS, and must also be served on interested parties.<sup>6</sup> An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time on the date that the document is due.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice.<sup>7</sup> Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. 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

<sup>3</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>4</sup> See 19 CFR 351.309(d).

<sup>5</sup> See 19 CFR 351.303.

<sup>6</sup> See 19 CFR 351.303(f).

<sup>7</sup> See 19 CFR 351.310(c).



determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.<sup>8</sup>

#### Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.<sup>9</sup>

If JBL Canada's calculated weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer, and we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review. If JBL Canada's weighted-average dumping margin continues to be zero or *de minimis*, or the importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.<sup>10</sup>

In accordance with the Department's "automatic assessment" practice, for entries of subject merchandise during the POR produced by JBL Canada for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate.<sup>11</sup>

We intend to issue instructions to CBP 41 days after the date of publication of the final results of this review.

#### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or

after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for JBL Canada will be the rate established in the final results of this review, except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1) (*i.e.*, less than 0.50 percent), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate established in the less-than-fair-value investigation.<sup>12</sup> These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: January 24, 2018.

**Christian Marsh,**

*Deputy Assistant Secretary for Enforcement and Compliance.*

#### Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
  - A. Comparisons to Normal Value
    1. Determination of Comparison Method
    2. Results of the Differential Pricing Analysis
  - B. Product Comparisons
  - C. Constructed Export Price
  - D. Normal Value
    1. Home Market Viability and Selection of Comparison Market

2. Level of Trade (LOT)
- E. Cost of Production (COP) Analysis
  1. Calculation of COP
  2. Test of Comparison Market Sales Prices
  3. Results of the COP Test
- F. Calculation of NV Based on Comparison Market Prices
- G. Calculation of NV Based on CV
- H. Currency Conversion
- V. Recommendation

[FR Doc. 2018-02287 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### U.S. Department of Commerce Trade Finance Advisory Council

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or Council) will hold a meeting on Thursday, February 22, 2018, at the U.S. Department of Commerce, in Washington, DC. The meeting is open to the public with registration instructions provided below.

**DATES:** Thursday, February 22, 2018, from approximately 10:00 a.m. to 3:00 p.m. Eastern Standard Time (EST). The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EST on February 14, 2018. Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

**ADDRESSES:** U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Ericka Ukrow, Designated Federal Officer, Office of Finance and Insurance Industries (OFII), International Trade Administration, U.S. Department of Commerce at (202) 482-0405; email: [Ericka.Ukrow@trade.gov](mailto:Ericka.Ukrow@trade.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 25, 2016, the Secretary of Commerce established the TFAC pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The TFAC advises the Secretary of Commerce in identifying effective ways to help expand access to finance for U.S. exporters, especially

<sup>8</sup> See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

<sup>9</sup> See 19 CFR 351.212(b)(1).

<sup>10</sup> See 19 CFR 351.106(c)(2).

<sup>11</sup> For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>12</sup> See the Order.



small- and medium-sized enterprises (SMEs) and their foreign buyers. The TFAC also provides a forum to facilitate the discussion between a diverse group of stakeholders such as banks, non-bank financial institutions, other trade finance related organizations, and exporters, to gain a better understanding regarding current challenges facing U.S. exporters in accessing capital.

On February 22, 2018, the TFAC will hold its third meeting. During this meeting members are expected to discuss possible recommendations on policies and programs that can increase awareness of, and expand access to, private export financing resources for U.S. exporters. They will also hear from officials from the Department of Commerce and other agencies on issues impacting the scope of their work and mission.

#### Public Participation

The meeting will be open to the public and will be accessible to people with disabilities.

All guests are required to register in advance by the deadline identified under the **DATE** caption. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted by either of the following methods: (a) Electronic Submission: Submit statements electronically to Ericka Ukrow, U.S. Department of Commerce Trade Finance Advisory Council Designated Federal Officer, via email to [TFAC@trade.gov](mailto:TFAC@trade.gov); or (b) Paper Submissions: Send paper statements to Ericka Ukrow, U.S. Department of Commerce Trade Finance Advisory Council Designated Federal Officer, Room 18002, 1401 Constitution Avenue NW, Washington, DC 20230. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on February 14, 2018, for inclusion in the meeting records and for

circulation to the members of the Council. In addition, any member of the public may submit pertinent written comments concerning matters relevant to the TFAC's responsibilities at any time before or after the meeting. Comments may be submitted to Ericka Ukrow, at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on February 14, 2018, to ensure transmission to the Council members prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Comments and statements will be posted on the U.S. Department of Commerce Trade Finance Advisory Council website (<http://trade.gov/TFAC>) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers.

All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you are prepared to have made publicly available.

#### II. Meeting Minutes

Copies of TFAC meeting minutes will be available within 90 days of the meeting.

Dated: January 26, 2018.

**Paul Thanos,**

*Director, Office of Finance and Insurance Industries.*

[FR Doc. 2018-02273 Filed 2-5-18; 8:45 am]

**BILLING CODE P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XF792**

##### Endangered and Threatened Species; Initiation of a 5-Year Review for the Endangered Western Distinct Population Segment of Steller Sea Lion; Extension of Public Comment Period and Correction

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

**ACTION:** Notice of initiation of 5-year review; request for information, extension of public comment period and correction.

**SUMMARY:** NMFS hereby extends the comment period on the notice of

initiation of a 5-year review of the Western Distinct Population Segment (DPS) of Steller sea lion (*Eumetopias jubatus*) under the Endangered Species Act of 1973, as amended (ESA), and our request for information relevant to that review. We also correct the electronic link provided in the address.

**DATES:** Comments related to the 5-year review of the western DPS of Steller sea lion must be submitted via the Federal eRulemaking Portal or received at the appropriate address (see **ADDRESSES**) by April 6, 2018. However, we will continue to accept new information about Steller sea lions at any time.

**ADDRESSES:** Submit your information or comments by including the FDMS Docket Number NOAA-NMFS-2017-0137, by either of the following methods:

- **Federal e-Rulemaking Portal.** Go to <https://www.regulations.gov/docket?D=NOAA-NMFS-2017-0137>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written information to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian, P.O. Box 21668, Juneau, AK 99802-1668.

**Instructions:** We may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the specified period. All comments received are a part of the public record, and we will generally post for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender is publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic submissions will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Dr. Lisa Rotterman, 907-271-1692 or [lisa.rotterman@noaa.gov](mailto:lisa.rotterman@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 8, 2017 we, NMFS, published a notice in the **Federal Register** (82 FR 57955) announcing our initiation of a 5-year review of the Western DPS of Steller sea lion under the ESA and requesting information relevant to this review. NMFS received a request to extend the public comment period to provide adequate time for

interested parties to research and prepare comments. Based on this request, the comment period for submission of comments and information relevant to this 5-year review is extended to April 6, 2018, as requested, to provide additional opportunity for public comment.

#### Correction of Address

The electronic link provided in the **Federal Register** (82 FR 57955) notice for submission of comments via the Federal eRulemaking Portal is not correct. Thus, NMFS provides a new electronic link (<https://www.regulations.gov/docket?D=NOAA-NMFS-2017-0137>) in the address section above.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: February 1, 2018.

**Angela Somma,**

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018-02326 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XF285**

#### Endangered Species; File No. 21293

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that NMFS has issued a permit to Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc. (GSML), for the incidental take of Gulf sturgeon (*Acipenser oxyrinchus desotoi*), loggerhead (*Caretta caretta* Northwest Atlantic Ocean Distinct Population Segment), green (*Chelonia mydas* North Atlantic Distinct Population Segment), Kemp's ridley (*Lepidochelys kempii*) and leatherback sea turtles (*Dermochelys coriacea*) associated with the otherwise lawful trawling activities in Florida state waters of Bay, Gulf, Franklin, and Wakulla Counties.

**ADDRESSES:** The incidental take permit, final environmental assessment, and other related documents are available on the NMFS Office of Protected Resources website at [http://www.nmfs.noaa.gov/pr/permits/esa\\_review.htm](http://www.nmfs.noaa.gov/pr/permits/esa_review.htm).

**FOR FURTHER INFORMATION CONTACT:** Sara Wissmann, phone: (301) 427-8402; email: [Sara.Wissmann@noaa.gov](mailto:Sara.Wissmann@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Section 9 of the ESA and Federal regulations prohibits the 'taking' of a species listed as endangered or threatened. The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. The regulations for issuing incidental take permits for threatened and endangered species are promulgated at 50 CFR 222.307.

NMFS received a permit application from GSML on February 4, 2016. Based on our review of the application, we requested further information and clarification. On July 22, 2016, GSML submitted supplemental information to its application. NMFS and GSML held further discussions on amount and extent of anticipated takes and clarifications of gear type to be used. On March 16, 2017, NMFS notified GSML of this approach, and GSML confirmed the updated approach on March 21, 2017.

On April 12, 2017, we published a notice of application receipt and requested review and comment on the application and conservation plan in the **Federal Register** (82 FR 17638). The public comment period for the application and conservation plan closed on May 12, 2017. NMFS received three comments on the action, all were generally supportive of the issuance of the permit. Specific concerns were raised on duration of the permit and oversight of activities covered by the permit, which were addressed in the Environmental Assessment.

On November 6, 2017, we published a notice of availability of the draft Environmental Assessment and requested review and comment in the **Federal Register** (82 FR 51398). The public comment period for the Environmental Assessment closed on December 6, 2017, and no comments were received. NMFS has issued the requested permit under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

This permit authorizes the incidental take of up to a total of six sea turtles, all live, in any combination, of loggerhead, green, Kemp's ridley or leatherback sea turtles and up to six Gulf sturgeon, alive. If incidental

captures reach the established level for either turtles or sturgeon, GSML must cease activities authorized under this ITP. Take must be incidental to otherwise lawful trawling activities described in the ITP application, and as conditioned in the permit. This ITP covers incidental take from date of issuance through December 11, 2035.

The conservation plan prepared by GSML describes measures designed to minimize and mitigate the impacts of any incidental takes of ESA-listed sea turtles and sturgeon. The main way that GSML will do this is by limiting tow times to 30 minutes. In the case of incidental capture this plan includes provisions to ensure that any captured sea turtles in need of resuscitation are provided such care, per NMFS guidelines. Additionally, any turtles needing medical attention or rehabilitation will be cared for by authorized persons and facilities. This permit also requires the applicant to follow specific handling procedures for Gulf sturgeon to minimize impacts to this species should an interaction occur. The conservation plan mitigates the impacts of any incidental takes of ESA-listed sea turtles that are harmed due to interactions with other fisheries in the area. Specifically, GSML will remove, taking into account any human safety considerations, any turtles it encounters entangled in fishing lines, nets, and trap ropes. If any of these sea turtles require care, GSML will transport them to a permitted sea turtle rehabilitation facility.

Dated: February 1, 2018.

**Angela Somma,**

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018-02320 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### National Sea Grant Advisory Board (NSGAB); Meeting: The National Sea Grant Advisory Board Spring 2018 Meeting Will Be Held March 6-7, 2018.

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the NSGAB. NSGAB members will discuss and provide advice on the National Sea

Grant College Program (NSGCP) in the areas of program evaluation, strategic planning, education, and extension, science and technology programs, and other matters as described in the agenda found on the NSGCP website at <http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx>.

**DATES:** The announced meeting is scheduled for Tuesday, March 6, 2018 from 8:30 a.m. to 4:45 p.m. EST and Wednesday, March 7, 2018, from 8:00 a.m. to 12:00 p.m. EST.

**ADDRESSES:** The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle, Northwest, Washington, DC 20005.

**STATUS:** The meeting will be open to public participation with a 15-minute public comment period on Tuesday, March 6, 2018 at 10:00 a.m. EST. (check agenda using link in the **SUMMARY** section to confirm time.)

The NSGAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Donna Brown by Friday, March 2, 2018 to provide sufficient time for NSGAB review. Written comments received after the deadline will be distributed to the NSGAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-serve basis.

**CONTACT INFORMATION:** For any questions concerning the meeting, please contact Ms. Donna Brown, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11717, Silver Spring, Maryland, 20910, 301-734-1088, [Donna.Brown@noaa.gov](mailto:Donna.Brown@noaa.gov).

**SPECIAL ACCOMMODATIONS:** These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Donna Brown by Friday, February 23, 2018.

**SUPPLEMENTARY INFORMATION:** The NSGAB, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94-461, 33 U.S.C. 1128). The NSGAB advises the Secretary of Commerce and the Director of the NSGCP with respect

to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

Dated: January 30, 2018.

**David Holst,**

*Chief Financial/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2018-02313 Filed 2-5-18; 8:45 am]

**BILLING CODE 3510-KA-P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before March 8, 2018.

**ADDRESSES:** Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by "OMB Control No. 3038-0026."

- By email addressed to: [OIRAsubmissions@omb.eop.gov](mailto:OIRAsubmissions@omb.eop.gov) or
- By mail addressed to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the "Commission") by either of the following methods. The copies should refer to "OMB Control No. 3038-0026."

- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or

- Through the Commission's website at <http://comments.cftc.gov>. Please follow the instructions for submitting comments through the website. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.<sup>1</sup> The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

#### FOR FURTHER INFORMATION CONTACT:

Mark Bretscher, Division of Swap Dealers and Intermediary Oversight, Commodity Futures Trading Commission, 525 W Monroe, Suite 1100, Chicago, IL 60661, (312) 596-0529; email: [mbretscher@cftc.gov](mailto:mbretscher@cftc.gov) and refer to OMB Control No. 3038-0026.

#### SUPPLEMENTARY INFORMATION:

**Title:** Gross Collection of Exchange-Set Margins for Omnibus Accounts (OMB Control No. 3038-0026). This is a request for extension of a currently approved information collection.

**Abstract:** Commission Regulation 1.58 requires futures commission merchants to collect exchange-set margin for omnibus accounts on a gross, rather than a net, basis. The regulation provides that the carrying future commission merchant (FCM) need not collect margin for positions traded by a person through an omnibus account in excess of the amount that would be required if the same person, instead of trading through an omnibus account, maintained its own account with the carrying FCM. To prevent abuse of this

<sup>1</sup> 17 CFR 145.9.

exception to the regulation, a carrying FCM must maintain a written representation from the originating FCM or foreign broker that the particular positions held in the omnibus account are part of a hedge or spread transaction. This collection of information is necessary in order to provide documentation that can be inspected with regard to questions of proper compliance with gross margining requirements. This rule is promulgated pursuant to the Commission's rulemaking authority contained in Sections 4c, 4d, 4f, 4g and 8a of the Commodity Exchange Act, 7 U.S.C. 6c, 6d, 6f, 6g and 12a.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 22, 2017 (82 FR 55591).

**Burden statement:** The Commission is revising its estimate of the burden due to the reduced number of futures commission merchants in the industry. The respondent burden for this collection is estimated to be as follows:

*Respondents/Affected Entities:* 57.

*Reports annually by each respondent:*

4. *Estimated number of responses:* 228.  
*Estimated average number of hours per response:* 0.08.

*Estimated total annual burden on respondents:* 18 hours.

*Frequency of collection:* On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

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

Dated: February 1, 2018.

**Robert N. Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2018-02300 Filed 2-5-18; 8:45 am]

**BILLING CODE 6351-01-P**

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Board of Visitors, United States Military Academy (USMA)

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of committee meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, the Department of Defense announces that the following Federal advisory committee meeting will take place.

**DATES:** The meeting will be held on Wednesday, February 28, 2018, Time 1:00 p.m.–4:30 p.m. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering in order to gain access to the meeting location. All members of the public are subject to security screening.

**ADDRESSES:** The meeting will be held in the Members Room, Library of Congress, 101 Independence Avenue SE, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996; by email at: [deadra.ghostlaw@usma.edu](mailto:deadra.ghostlaw@usma.edu) or [BoV@usma.edu](mailto:BoV@usma.edu); or by telephone at (845) 938-4200.

**SUPPLEMENTARY INFORMATION:** The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

**Purpose of the Meeting:** This is the 2018 Organizational Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues. Agenda: Introduction; Board Business: Election of 2018 Chair and Vice Chair, Review and Approval of the "Rules of the USMA Board of Visitors," Swearing In of Presidential Appointees, Approval of the Minutes from October's Meeting, Status of the 2017 Annual Report. Review of 2017: Military, Academic, Physical, Diversity, SHARP (Sexual Harassment and Assault Response and Prevention), Athletics; Examination of Trust: Daily Beast/DAIG (Department of the Army Inspector General), DoD SHARP report; West Point 2018: Developing leaders of Character-Character Education Revision, Admissions (Class of 2022), Middle States Reaccreditation, Upcoming events; Way Ahead: West Point 2035, Public relations assistance (rebuilding trust).

**Public's Accessibility to the Meeting:** Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165 and subject to the availability of space, this meeting is open to the public. Seating is

on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102-3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility security screening is required. A government photo ID is required to enter the building. Longworth House Office Building is fully handicap accessible. Wheelchair access is available at the entrance on Independence Avenue SE at the Driveway Level. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Written Comments or Statements:** Pursuant to 41 CFR 102-3.105(j) and 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee

Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018–02296 Filed 2–5–18; 8:45 am]

**BILLING CODE 5001–03–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Army Education Advisory Subcommittee Meeting Notice

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of open subcommittee meeting.

**SUMMARY:** The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Defense Language Institute Foreign Language Center Board of Visitors, a subcommittee of the Army Education Advisory Committee. This meeting is open to the public.

**DATES:** The Defense Language Institute Foreign Language Center (DLIFLC) Board of Visitors Subcommittee will meet from 8:00 a.m. to 5:00 p.m. on March 6, 7 and 8, 2018.

**ADDRESSES:** Defense Language Institute Foreign Language Center, Building 326, Weckerling Center, Presidio of Monterey, CA 93944.

**FOR FURTHER INFORMATION CONTACT:** Mr. Detlev Kesten, the Alternate Designated Federal Officer for the subcommittee, in writing at Defense Language Institute Foreign Language Center, ATFL–APAS–AA, Bldg. 634, Presidio of Monterey, CA 93944, by email at [Detlev.kestenv@dliflc.edu](mailto:Detlev.kestenv@dliflc.edu), or by telephone at (831) 242–6670.

**SUPPLEMENTARY INFORMATION:** The subcommittee meeting is being held under the provisions of the Federal

Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

**Purpose of the Meeting:** The purpose of the meeting is to provide the subcommittee with briefings and information focusing on the Institute's plan for its students to achieve higher proficiency scores on the Defense Language Proficiency Test (DLPT). The subcommittee will also meet with the ACCJC accreditation site visit team and receive updates on the Institute's accreditation. It will also address administrative matters.

**Proposed Agenda:** March 6 and 7—The subcommittee will receive briefings associated with DLIFLC's higher proficiency goals and the Institute's actions in supporting said goal. The subcommittee will be updated on the Institute's on going self study to reaffirm its academic accreditation, and meet with the members of the ACCJC accrediting commission during their site visit. The subcommittee will complete administrative procedures and appointment requirements. March 8—The subcommittee will have time to discuss and compile observations pertaining to agenda items. General deliberations leading to provisional findings will be referred to the Army Education Advisory Committee for deliberation by the Committee under the open-meeting rules.

**Public Accessibility to the Meeting:** Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mr. Kesten, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Because the meeting of the subcommittee will be held in a Federal Government facility on a military base, security screening is required. A photo ID is required to enter base. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. Weckerling Center is fully handicap accessible. Wheelchair access is available on the right side of the main entrance of the building. For additional information about public access procedures, contact Mr. Kesten, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Written Comments or Statements:** Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Mr. Kesten, the subcommittee Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The Alternate Designated Federal Officer will review all submitted written comments or statements and provide them to members of the subcommittee for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Alternate Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least seven business days in advance to the subcommittee's Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Alternate Designated Federal Officer will log each request, in the order received, and in consultation with the Subcommittee Chair, determine whether the subject matter of each comment is relevant to the Subcommittee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been

deemed relevant under the process described above, will be allotted no more than three minutes during the period, and will be invited to speak in the order in which their requests were received by the Alternate Designated Federal Official.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018-02293 Filed 2-5-18; 8:45 am]

**BILLING CODE 5001-03-P**

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Board on Coastal Engineering Research

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of Advisory Committee meeting.

**SUMMARY:** The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Board on Coastal Engineering Research. This meeting is open to the public.

**DATES:** The Board on Coastal Engineering Research will meet from 8:00 a.m. to 5:15 p.m. on March 14, 2018 and reconvene from 8:00 a.m. to 12:30 p.m. on March 15, 2017.

**ADDRESSES:** All sessions will be held at the US Army Corp of Engineers Coastal Hydraulics Laboratory (CHL) Field Research Facility (FRF), 1261 Duck Road, Duck, NC 27949. All sessions are open to the public. For more information about the Board, please visit <https://chl.erdc.dren.mil/usace-cerb/>

**FOR FURTHER INFORMATION CONTACT:** COL Bryan S. Green Designated Federal Officer (DFO), U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199, phone 601-634-2513, or [Bryan.S.Green@usace.army.mil](mailto:Bryan.S.Green@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150. The Board on Coastal Engineering Research reviews plans for the conduct of research and the development of research projects in consonance with the needs of the coastal engineering field and the objectives of the U.S. Army Chief of Engineers.

**Purpose of the Meeting:** The meeting is an Executive Session to review past action items, status reports, research and development (R & D) strategic directions, and coastal engineering research in the United States.

**Agenda:** On Wednesday morning, March 14, 2018, past/current action items will be reviewed and discussed. There will be an update on the Nearshore Process Research Initiative and presentations on the 2017 Hurricane Season CHL Support & Response Activities, The 2017 Storm, Surge Paradox and Workshop, and DuneX Experiment at FRF 2019-2020. After lunch presentations will be given on US Coastal Research Program, Dune Research including Wind Tunnel Tests. An overview of the CHL FRF is scheduled that afternoon, followed by the Report on the Coastal Working Group Annual Meeting with focus on R & D needs, and end with an update on Flood and Navigation Coastal Asset Management.

On Thursday morning, March 15, 2018, the Board will reconvene to discuss comments from day one. Presentations will be given on Coastal Processes R&D Needs, Next Generation Coastal Guidance Document, Strategic Tech Transfer & Training, and an Update: Numerical Technology Modernization. The meeting will conclude with a discussion on future meetings and public comment.

**Meeting Accessibility:** Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102-3.140 through 102-3.165, and subject to the availability of space, the meeting is open to the public. Because seating capacity is limited, advance registration is required. For registration requirements please see below.

Oral participation by the public is scheduled for 11:30 a.m. on Thursday, March 15, 2018. For additional information about public access procedures, please contact COL Bryan S. Green, the Board's DFO, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Registration:** It is encouraged for individuals who wish to attend the meeting of the Board to register with the DFO by email, the preferred method of contact, no later than March 1, 2018, using the electronic mail contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, and daytime phone number. If applicable, include written comments or statements with the registration email.

**Written Comments and Statements:** Pursuant to 41 CFR 102-3.015(j) and 102-3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board, in response to the stated agenda of the open meeting or in regard to the Board's mission in general. Written comments or statements should be submitted to COL Bryan S. Green, DFO, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO will review all submitted written comments or statements and provide them to members of the Board for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the DFO at least five business days prior to the meeting to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chairperson and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting.

**Verbal Comments:** Pursuant to 41 CFR 102-3.140d, the Board is not obligated to allow a member of the public to speak or otherwise address the Board during the meeting. Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least five business days in advance to the Board's DFO, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The DFO will log each request, in the order received, and in consultation with the Board Chair, determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 30-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment, and whose comments have been deemed relevant under the process described above, will be allotted no more than five minutes during this period, and will be invited to speak in

the order in which their requests were received by the DFO.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018-02294 Filed 2-5-18; 8:45 am]

BILLING CODE 3720-58-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Inland Waterways Users Board Meeting Notice

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of open Federal advisory committee meeting.

**SUMMARY:** The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's website at <http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx>.

**DATES:** The Army Corps of Engineers, Inland Waterways Users Board will meet from 8:00 a.m. to 12:00 p.m. on March 1, 2018. Public registration will begin at 7:15 a.m.

**ADDRESSES:** The Inland Waterways Users Board meeting will be conducted at the Embassy Suites by Hilton Chattanooga Hamilton Place, 2321 Lifestyle Way, Chattanooga, TN 37421, 423-602-5100.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR-GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315-3868; by telephone at 703-428-6438; and by email at [Mark.Pointon@usace.army.mil](mailto:Mark.Pointon@usace.army.mil). Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR-GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315-3868; by telephone at 703-428-8083; and by email at [Kenneth.E.Lichtman@usace.army.mil](mailto:Kenneth.E.Lichtman@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C.,

Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150.

**Purpose of the Meeting:** The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

**Agenda:** At this meeting the agenda will include the status of FY 2018 funding and impacts for Navigation; status of the FY 2019 Budget for the Navigation Program; status of the Inland Waterways Trust Fund and project updates; status of the construction activities for Olmsted Locks and Dam Project, the Locks and Dams 2, 3, and 4 on the Monongahela River Project, and the Kentucky Lock Project; and status of the Inner Harbor Navigation Canal (IHNC) Lock General Re-evaluation Report.

**Availability of Materials for the Meeting.** A copy of the agenda or any updates to the agenda for the March 1, 2018 meeting. The final version will be provided at the meeting. All materials will be posted to the website after the meeting.

**Public Accessibility to the Meeting:** Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102-3.140 through 102-3.165, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 7:15 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

**Special Accommodations:** The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional

information about public access procedures, should contact Mr. Pointon, the committee DFO, or Mr. Lichtman, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

**Written Comments or Statements:** Pursuant to 41 CFR 102-3.105(j) and 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Lichtman, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

**Verbal Comments:** Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for



verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2018-02298 Filed 2-5-18; 8:45 am]

**BILLING CODE 3720-58-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. IC18-5-000]

#### Commission Information Collection Activities; (FERC-917 & FERC-918) Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the information collections, FERC-917 (Electric Transmission Facilities) and FERC-918 (Standards for Business Practices and Communication Protocols for Public Utilities, both under OMB Control No. 1902-0233.

**DATES:** Comments on the collection of information are due April 9, 2018.

**ADDRESSES:** You may submit comments (identified by Docket No. IC18-5-000) by either of the following methods:

- *eFiling at Commission's website:*  
<http://www.ferc.gov/docs-filing/efiling.asp>.

- *Mail/Hand Delivery/Courier:*  
Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

**Instructions:** All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502-8663, and fax at (202) 273-0873.

#### SUPPLEMENTARY INFORMATION:

**Title:** FERC-917 (Electric Transmission Facilities) and FERC-918 (Standards for Business Practices and Communication Protocols for Public Utilities).

**OMB Control No.:** 1902-0233.

**Type of Request:** Three-year extension of the FERC-917 and FERC-918 information collection requirements with no changes to the current reporting requirements.

**Abstract:** On February 17, 2007, the Commission issued Order No. 890 to address and remedy opportunities for undue discrimination under the *pro forma* Open Access Transmission Tariff (OATT) adopted in 1996 by Order No. 888.<sup>1</sup> Through Order No. 890, the Commission:

(1) Adopted *pro forma* OATT provisions necessary to keep imbalance charges closely related to incremental costs;

(2) Increased nondiscriminatory access to the grid by requiring public utilities, working through the North American Electric Reliability Corporation (NERC), to develop consistent methodologies for available transfer capability (ATC) calculation and to publish those methodologies to increase transparency.

(3) Required an open, transparent, and coordinated transmission planning process thereby increasing the ability of customers to access new generating resources and promote efficient utilization of transmission.

(4) Gave the right to customers to request from transmission providers, studies addressing congestion and/or integration of new resource loads in areas of the transmission system where they have encountered transmission problems due to congestion or where they believe upgrades and other investments may be necessary to reduce congestion and to integrate new resources.

(5) Required both the transmission provider's merchant function and

<sup>1</sup> *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (DC Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

network customers to include a statement with each application for network service or to designate a new network resource that attests, for each network resource identified, that the transmission customer owns or has committed to purchase the designated network resource and the designated network resource comports with the requirements for designated network resources. The network customer includes this attestation in the customer's comment section of the request when it confirms the request on the Open Access Same-Time Information System (OASIS).

(6) Required with regard to capacity reassignment that: (a) All sales or assignments of capacity be conducted through or otherwise posted on the transmission provider's OASIS on or before the date the reassigned service commences; (b) assignees of transmission capacity execute a service agreement prior to the date on which the reassigned service commences; and (c) transmission providers aggregate and summarize in an electric quarterly report the data contained in these service agreements.

(7) Adopted an operational penalties annual filing that provides information regarding the penalty revenue the transmission provider has received and distributed.

(8) Required creditworthiness information to be included in a transmission provider's OATT. Attachment L must specify the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required.

The Commission required a NERC/NAESB<sup>2</sup> team to draft and review Order No. 890 reliability standards and business practices. The team was to solicit comment from each utility on developed standards and practices and utilities were to implement each, after Commission approval. Public utilities, working through NERC, were to revise reliability standards to require the exchange of data and coordination among transmission providers and, working through NAESB, were to develop complementary business practices.

Required OASIS postings included:

(1) Explanations for changes in ATC values;

(2) Capacity benefit margin (CBM) reevaluations and quarterly postings;

(3) OASIS metrics and accepted/denied requests;

<sup>2</sup> NAESB is the North American Energy Standards Board.



(4) Planning redispatch offers and reliability redispatch data;  
 (5) Curtailment data;  
 (6) Planning and system impact studies;  
 (7) Metrics for system impact studies;  
 (8) All rules.

Incorporating the Order No. 890 standards into the Commission's regulations benefits wholesale electric customers by streamlining utility business practices, transactional processes, and OASIS procedures, and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards and other electric industry business practices. These practices and

procedures benefit from the implementation of generic industry standards.

The Commission's Order No. 890 regulations can be found in 18 CFR 35.28 (*pro forma* tariff requirements), and 37.6 and 37.7 (OASIS requirements).

**Action:** The Commission is requesting a three-year extension of the current FERC-917 and FERC-918 (Order No. 890) reporting requirements, with no change to the existing requirements.

**Burden Statement:** The FERC-917 and FERC-918 information collections are both approved under the OMB Control Number 1902-0233. The estimated annual public reporting

burdens for FERC-917 (requirements in 18 CFR 35.28) and FERC-918 (requirements in 18 CFR 37.6 and 37.7) are reduced from the original estimates made three years ago. The reductions are due to the incorporation and completion of: (1) One-time *pro forma* tariff and standards changes by utilities in existence at that time, which would not be needed unless the tariff and/or standards are changed again; and (2) completed development and comment solicitation of the required NERC/NAESB reliability standards and business practices. The other activities are annual ongoing requirements. The estimated annual figures follow.

FERC information collection	Annual Number of respondents	Average Number of responses per respondent	Average burden <sup>3</sup> hours per response	Total annual burden hours
	(1)	(2)	(3)	(1) × (2) × (3)
<b>18 CFR 35.28 (FERC-917)</b>				
Conforming tariff changes .....	0	0	0	0
Revision of Imbalance Charges .....	0	0	0	0
ATC revisions .....	0	0	0	0
Planning (Attachment K) .....	134	1	100	13,400
Congestion studies .....	134	1	300	40,200
Attestation of network resource commitment .....	134	1	1	134
Capacity reassignment .....	134	1	100	13,400
Operational Penalty annual filing .....	134	1	10	1,340
Creditworthiness—include criteria in the tariff .....	0	0	0	0
FERC-917—Sub Total Part 35 .....				68,474
<b>18 CFR 37.6 &amp; 37.7 (FERC-918)</b>				
<i>ATC-related standards:</i>				
NERC/NAESB Team to develop .....	0	0	0	0
Review and comment by utility .....	0	0	0	0
Implementation by each utility .....	0	0	0	0
Mandatory data exchanges .....	134	1	80	10,720
Explanation of change of ATC values .....	134	1	100	13,400
Reevaluate CBM and post quarterly .....	134	1	20	2,680
Post OASIS metrics; requests accepted/denied .....	134	1	90	12,060
Post planning redispatch offers and reliability redispatch data .....	134	1	20	2,680
Post curtailment data .....	134	1	10	1,340
Post Planning and System Impact Studies .....	134	1	5	670
Posting of metrics for System Impact Studies .....	134	1	100	13,400
Post all rules to OASIS .....	134	1	5	670
FERC-918—Recordkeeping Requirements .....	134	1	40	5,360
FERC-918 -Sub Total of Part 37 Reporting Requirements .....				57,620
FERC-918—Sub Total of Reporting and Recordkeeping Requirements .....				62,980
Total FERC-917 and FERC-918 (Part 35 + Part 37, Reporting and Recordkeeping Requirements) .....				131,454

Total combined annual burden for FERC-917 and FERC-918 is 131,454 hours (126,094 reporting hours + 5,360 recordkeeping hours). This is a

reduction of 28,300 hours from the combined FERC-917 and FERC-918 burden OMB previously approved.

<sup>3</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide

information to or for a Federal agency. For further explanation of what is included in the information

collection burden, refer to 5 Code of Federal Regulations 1320.3.

Total combined estimated annual cost for FERC-917 and FERC-918 is \$131,454<sup>4</sup>. This includes:

(1) Reporting costs of \$10,339,708;<sup>5</sup> (126,094 hours @ \$82.00 an hour (average cost of attorney (\$143.68 per hour), consulting (\$89.00), management Analyst (\$63.49), and administrative support (\$40.89)) and

(2) Recordkeeping (labor and storage) costs of \$7,575,486.40; (labor = \$175,486.40; 5,360 hours × \$32.74/hour<sup>7</sup> (file/record clerk @ \$32.74 an hour) and off-site storage costs = \$7,400,000; (8,000 sq. ft. × \$925/sq. ft.).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing, and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to the collections of information; (5) searching data sources; (6) completing and reviewing the collections of information; and (7) transmitting or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed

collections 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 collections of information on those who are to respond, including 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.

Dated: January 31, 2018.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2018-02323 Filed 2-5-18; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2017-0320; FRL-9970-37]

### Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1741.08); Comment Request

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Correction of Misreported Chemical Substances on the TSCA Inventory" and identified by EPA ICR No. 1741.08 and OMB Control No. 2070-0145, represents the renewal of an existing ICR that is scheduled to expire on June 30, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

**DATES:** Comments must be received on or before April 9, 2018.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2017-0320, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

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

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Ron Carlson, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-8631; email address: [carlson.ron@epa.gov](mailto:carlson.ron@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

<sup>4</sup> The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2017 annual average of \$158,754 (for salary plus benefits), the average hourly cost is \$76.50/hour.

<sup>6</sup> This wage figure uses the weighted hourly average wage (plus benefits) for Legal (Occupation Code: 23-0000), management, scientific, and consulting (Occupation Code: 11-0000), management analyst (Occupation Code: 13-1111), Administrative Support (43-0000) and File Clerk (Occupation Code: 43-4071) obtained from the Bureau of Labor Statistics. Uses the hourly average wage (plus benefits) for file clerks obtained from the Bureau of Labor Statistics: \$32.74/hour (BLS Occupation Code: 43-4071).

## II. What information collection activity or ICR does this action apply to?

*Title:* Correction of Misreported Chemical Substances on the TSCA Inventory.

*ICR number:* EPA ICR No. 1741.08.

*OMB control number:* OMB Control No. 2070-0145.

*ICR status:* This ICR is currently scheduled to expire on June 30, 2018. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* Section 8(b) of the Toxic Substances Control Act (TSCA) requires EPA to compile and keep current an Inventory of Chemical Substances in Commerce, which is a listing of chemical substances manufactured, imported, and processed for commercial purposes in the United States. The purpose of the Inventory is to define, for the purpose of TSCA, what chemical substances exist in U.S. commerce. Since the Inventory thereby performs a regulatory function by distinguishing between existing chemicals and new chemicals, which TSCA regulates in different ways, it is imperative that the Inventory be accurate.

However, from time to time, EPA or respondents discover that substances have been incorrectly described by reporting companies. Reported substances have been unintentionally misidentified as a result of simple typographical errors, the misidentification of substances, or the lack of sufficient technical or analytical information to characterize fully the exact chemical substances. EPA has developed guidelines (45 FR 50544, July 29, 1980) under which incorrectly described substances listed in the Inventory can be corrected. The correction mechanism ensures the accuracy of the Inventory without imposing an unreasonable burden on the chemical industry. Without the Inventory correction mechanism, a company that submitted incorrect information would have to file a pre-manufacture notification (PMN) under TSCA section 5 to place the correct chemical substance on the Inventory

whenever the previously reported substance is found to be misidentified. This would impose a much greater burden on both EPA and the submitter than the existing correction mechanism. This information collection applies to reporting and recordkeeping activities associated with the correction of misreported chemical substances found on the TSCA Inventory.

Responses to the collection of information are voluntary. Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

*Burden statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.25 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

*Respondents/Affected Entities:* Entities potentially affected by this ICR are manufacturers or importers of chemical substances, mixtures or categories listed on the TSCA Inventory and regulated under TSCA section 8, who had reported to EPA during the initial effort to establish the TSCA Inventory in 1979, and who need to make a correction to that submission.

*Estimated total number of potential respondents:* 9.

*Frequency of response:* On occasion.

*Estimated total average number of responses for each respondent:* 1.0.

*Estimated total annual burden hours:* 39.24 hours.

*Estimated total annual costs:* \$3,029.72. This includes an estimated burden cost of \$3,029.72 and an estimated cost of \$0 for capital investment or maintenance and operational costs.

## III. Are there changes in the estimates from the last approval?

There is an increase of 19 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects program changes in CBI substantiation requirements, as enacted in the Frank R Lautenberg Chemical Safety Act for the 21st Century. This change is the result of a program change.

## IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

Dated: January 31, 2018.

**Charlotte Bertrand,**

*Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2018-02348 Filed 2-5-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9973-54-Region 3]

### Clean Air Act Operating Permit Program; Petition To Object to Title V Permit for Raven Power, Fort Smallwood Complex; Maryland

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) Administrator signed an Order, dated January 17, 2018, denying a petition to object to a title V operating permit, issued by the Maryland Department of the Environment (MDE), for the Raven Power Fort Smallwood Complex in Anne Arundel County, Maryland. The Order responds to a February 3, 2017 petition. The petition was submitted jointly by the Chesapeake Climate Action Network, Environmental Integrity Project, Physicians for Social Responsibility, Chesapeake, Inc., and the Sierra Club (collectively, the Petitioners). This Order constitutes final action on that petition requesting that the Administrator object to the issuance of the proposed CAA title V permit.

**ADDRESSES:** Copies of the final Order, the petition, and all pertinent information relating thereto are on file at the following location: EPA, Region III, Air Protection Division (APD), 1650 Arch St., Philadelphia, Pennsylvania 19103. EPA requests that if at all

possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, petition, and other supporting information. You may view the hard copies Monday through Friday, from 9 a.m. to 3 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. The final Order is also available electronically at the following website: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

**FOR FURTHER INFORMATION CONTACT:** David Talley, APD, EPA Region III, telephone (215) 814-2117, or by email at [talley.david@epa.gov](mailto:talley.david@epa.gov).

**SUPPLEMENTARY INFORMATION:** The CAA affords EPA a 45-day period to review and object to, as appropriate, operating permits proposed by state permitting authorities. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to a state operating permit if EPA has not done so. Petitions must be based only on objections raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for objection or other issue arose after the comment period.

The February 3, 2017 petition requested that the Administrator object to the proposed title V operating permit issued by MDE (Permit no. 24-003-0468) on the grounds that the proposed permit and permit record did not contain adequate monitoring and testing requirements to demonstrate compliance with the opacity and particulate matter emission limits contained in the permit.

The Order denying the petition to object to the state operating permit to the Raven Power Fort Smallwood Complex explains the reasons behind EPA's decision to deny the petition for objection.

Dated: January 23, 2018.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2018-02333 Filed 2-5-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9973-53-OARM]

### National Advisory Council for Environmental Policy and Technology

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Federal Advisory Committee Teleconference.

**SUMMARY:** Under the Federal Advisory Committee Act, EPA gives notice of a public meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. NACEPT members represent academia, business/industry, non-governmental organizations, and state, local and tribal governments. The purpose of this meeting is for NACEPT to discuss the draft second report recommendations addressing how to best integrate citizen science work at EPA through effective collaboration and partnerships.

A copy of the meeting agenda will be posted at <http://www2.epa.gov/faca/nacept>.

**DATES:** NACEPT will hold a public teleconference on February 28, 2018, from 12 p.m. to 4 p.m. (EST).

**ADDRESSES:** The teleconference will be held at the EPA Headquarters, William Jefferson Clinton Federal Building East, Room 1132, 1201 Constitution Avenue NW, Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Eugene Green, Designated Federal Officer, [green.eugene@epa.gov](mailto:green.eugene@epa.gov), (202) 564-2432, U.S. EPA, Office of Resources, Operations and Management; Federal Advisory Committee Management Division (MC1601M), 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** Requests to make oral comments or to provide written comments to NACEPT should be sent to Eugene Green at [green.eugene@epa.gov](mailto:green.eugene@epa.gov) by February 21st. The teleconference is open to the public, with limited lines available on a first-come, first-served basis. Members of the public wishing to participate in the teleconference should contact Eugene Green via email or by calling (202) 564-2432 no later than February 21st.

**Meeting Access:** Information regarding accessibility and/or accommodations for individuals with disabilities should be directed to Eugene Green at the email address or phone number listed above. To ensure adequate time for processing,

please make requests for accommodations at least 10 days prior to the teleconference meeting.

Dated: January 23, 2018.

**Eugene Green,**

*Designated Federal Officer.*

[FR Doc. 2018-02335 Filed 2-5-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9974-01-Region 2]

### Proposed CERCLA Cost Recovery Settlement for the Frankfort Asbestos Superfund Site, Village of Frankfort, Herkimer County, New York

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), notice is hereby given by the U.S. Environmental Protection Agency ("EPA"), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with City Recycling, Inc. ("Settling Party") for the Frankfort Asbestos Superfund Site ("Site"), located in the Village of Frankfort, Herkimer County, New York.

**DATES:** Comments must be submitted on or before March 8, 2018.

**ADDRESSES:** The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007-1866. Comments should reference the Frankfort Asbestos Superfund Site, Frankfort, Herkimer County, New York, Index No. CERCLA-02-2018-2008. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

#### FOR FURTHER INFORMATION CONTACT:

Jocelyn Scott, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007-1866. email: [scott.jocelyn@epa.gov](mailto:scott.jocelyn@epa.gov). Telephone: 212-637-3179.

**SUPPLEMENTARY INFORMATION:** The Settling Party agrees to pay EPA \$100,000.00 in reimbursement of EPA's past response costs paid at or in connection with the Site, plus an additional sum for interest from the date of execution by EPA through the date of payment.

The settlement includes a covenant by EPA not to sue or to take administrative

action against the Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the response costs related to the work at the Site enumerated in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007-1866.

Date: January 18, 2018.

**Walter Mugdan,**

*Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.*

[FR Doc. 2018-02330 Filed 2-5-18; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R10-CERCLA-10-2017-0184; FRL-9974-03-Region 10]

### Proposed CERCLA Administrative Cost Recovery Settlement; Post Road Drum Site, Anchorage, Alaska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of response costs incurred for the Post Road Drum Site located at 200 N. Post Road, in Anchorage, Alaska. Under this proposed settlement, the settling parties are Alaska Railroad Corporation (ARRC) and SAN LLC. The proposed settlement requires the settling parties to pay \$50,000 to the Environmental Protection Agency Hazardous Substance Superfund. Upon payment of this sum to the Environmental Protection Agency (EPA), the settling parties will be released from their obligations for payments to EPA for costs EPA incurred at the Site prior to the effective date of the proposed settlement. For 30 days following the date of publication of this notice, the EPA will receive written comments relating to the proposed

settlement. The EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection at the U.S. EPA Region 10 Office, located at 1200 Sixth Avenue, Seattle, Washington 98101.

**DATES:** Comments must be received on or before March 8, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-CERCLA-10-2017-0184, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer MacDonald, Senior Attorney, Office of Regional Counsel, Mail Stop ORC-113, Environmental Protection Agency, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; telephone number (206) 553-8311; fax number (206) 553-1762; email address [macdonald.jennifer@epa.gov](mailto:macdonald.jennifer@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

The Post Road Drum Site is located at located at 200 Post Road, Anchorage, Alaska, within property owned by the ARRC. The Site is approximately four acres that ARRC leases to SAN LLC. Beginning in 2005 or 2006, SAN LLC subleased a portion of this property to William Vizzera, who did business as Precision Pavement Marking, Inc. (PPMI). In early November 2010, EPA received a citizen complaint regarding several 55 gallon drums and containers

on the Site that were suspected of leaking hazardous substances on to the ground and appeared to be abandoned. On November 10, 2010, EPA personnel conducted a Site visit and observed an estimated several hundred containers, including 55-gallon drums and 5-gallon pails, precariously stacked and scattered about the Site. Labels with the words "flammable liquid" and "organic peroxide" were observed on many containers. On December 15, 2010, EPA conducted a removal site evaluation. Drums were found in various states of deterioration as evidenced by bulging, corrosion, and other physical damage. EPA inventoried hundreds of containers, collected samples performed hazard categorization sample screening. Drums and containers were found across the Site on the ground or on top of or under the various vehicles at the Site—a flatbed trailer, two flatbed trucks and two box trailers. Approximately 340 fifty-five gallon drums, 140 five gallon pails and several pressurized paint vessels and several approximately 250-gallon liquid storage totes were found at the Site. Field screening and laboratory analysis of RSE samples indicates that the contents of containers at the site included ignitable and toxic characteristic RCRA hazardous wastes, which are hazardous substances. In response to the release or threatened release of hazardous substances at or from the Site, EPA oversaw the removal action at the Site.

EPA incurred approximately \$231,458 in response costs at the Site. Pursuant to the terms of the CERCLA Section 122(h)(1) Settlement Agreement for Recovery of Response Costs, the settling parties will pay EPA \$50,000. In return for the payment of this amount, EPA covenants not to sue the settling parties for past response costs—response costs incurred by EPA prior to the effective date of the Settlement Agreement—at the Site.

Dated: January 2, 2018.

**Calvin Terada,**

*Manager, Emergency Management Program, Office of Environmental Cleanup, EPA Region 10.*

[FR Doc. 2018-02332 Filed 2-5-18; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of Intent To Terminate the Receivership of 10457, First Commercial Bank, Bloomington, Minnesota

*Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or*

Receiver) as Receiver for First Commercial Bank, Bloomington, Minnesota, intends to terminate its receivership for said institution. The FDIC was appointed Receiver of First Commercial Bank on September 7, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: February 1, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018-02283 Filed 2-5-18; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of Intent To Terminate the Receivership of 10482, 1st Commerce Bank, North Las Vegas, Nevada

*Notice is hereby given* that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for 1st Commerce

Bank, North Las Vegas, Nevada, intends to terminate its receivership for said institution. The FDIC was appointed Receiver of 1st Commerce Bank on June 6, 2013. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: February 1, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018-02284 Filed 2-5-18; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of Intent To Terminate the Receivership of 10495, Millennium Bank, National Association (N.A.), Sterling, Virginia

*Notice is hereby given* that the Federal Deposit Insurance Corporation (FDIC or Receiver) as Receiver for Millennium Bank, N.A., Sterling, Virginia, intends to terminate its receivership for said

institution. The FDIC was appointed Receiver of Millennium Bank, N.A., on February 28, 2014. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: February 1, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018-02285 Filed 2-5-18; 8:45 am]

**BILLING CODE 6714-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination of Receiverships

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

### NOTICE OF TERMINATION OF RECEIVERSHIPS

Fund	Receivership name	City	State	Termination date
10106 .....	CapitalSouth Bank .....	Birmingham .....	AL	2/1/2018
10111 .....	Mainstreet Bank .....	Forest Lake .....	MN	2/1/2018
10178 .....	American Marine Bank .....	Bainbridge Island .....	WA	2/1/2018
10179 .....	First National Bank of Georgia .....	Carrollton .....	GA	2/1/2018
10209 .....	Beach First National Bank .....	Myrtle Beach .....	SC	2/1/2018
10247 .....	First National Bank .....	Rosedale .....	MS	2/1/2018
10249 .....	Washington First International Bank .....	Seattle .....	WA	2/1/2018
10258 .....	Mainstreet Savings Bank, FSB .....	Hastings .....	MI	2/1/2018
10268 .....	Sterling Bank .....	Lantana .....	FL	2/1/2018
10286 .....	Horizon Bank .....	Bradenton .....	FL	2/1/2018

## NOTICE OF TERMINATION OF RECEIVERSHIPS—Continued

Fund	Receivership name	City	State	Termination date
10301 .....	First Suburban National Bank.	Maywood .....	IL	2/1/2018
10341 .....	Peoples State Bank .....	Hamtramck .....	MI	2/1/2018
10345 .....	Habersham Bank .....	Clarksville .....	GA	2/1/2018
10359 .....	Community Central Bank ...	Mount Clemens .....	MI	2/1/2018
10409 .....	All American Bank .....	Des Plaines .....	IL	2/1/2018
10445 .....	Putnam State Bank .....	Palatka .....	FL	2/1/2018
10464 .....	Citizens First National Bank	Princeton .....	IL	2/1/2018
10491 .....	Texas Community Bank, National Association.	The Woodlands .....	TX	2/1/2018
10515 .....	Premier Bank .....	Denver .....	CO	2/1/2018

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

Dated: February 1, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2018-02286 Filed 2-5-18; 8:45 am]

BILLING CODE 6714-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project “*Expanding the Comprehensive Unit-based Safety Program (CUSP) to Reduce Central Line-Associated Blood Stream Infections (CLABSI) and Catheter-Associated Urinary Tract Infections (CAUTI) in Intensive Care Units (ICU) with Persistently Elevated Infection Rates.*”

This proposed information collection was previously published in the **Federal Register** on July 28, 2017, and allowed 60 days for public comment. AHRQ did not receive any substantive public comments. In response to internal project team feedback, the proposed data collection has been modified in order to increase efficiency and decrease respondent burden. Modifications include consolidation of two data collection tools (the Team Checkup Tool and the ICU Assessment) into one ICU Assessment and decreasing the frequency of administration. The modifications also now require broad administration of the ICU Action Plan, which previously was administered only to those sites that had a site visit. The purpose of this notice is to allow an additional 30 days for public comment.

**DATES:** Comments on this notice must be received by March 8, 2018.

**ADDRESSES:** Written comments should be submitted to: AHRQ’s OMB Desk Officer by fax at (202) 395-6974 (attention: AHRQ’s desk officer) or by email at [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) (attention: AHRQ’s desk officer).

**FOR FURTHER INFORMATION CONTACT:** Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by email at [doris.lefkowitz@AHRQ.hhs.gov](mailto:doris.lefkowitz@AHRQ.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Proposed Project

*Expanding the Comprehensive Unit-based Safety Program (CUSP) to reduce Central Line-Associated Blood Stream Infections (CLABSI) and Catheter-Associated Urinary Tract Infections (CAUTI) in Intensive Care Units (ICU) with persistently elevated infection rates.*

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

Healthcare-associated infections, or HAIs, are a highly significant cause of

illness and death for patients in the U.S. health care system. At any given time, HAIs affect one out of every 25 hospital inpatients. More than a million of these infections occur across the health care system every year, leading to significant patient harm and the annual loss of tens of thousands of lives, and costing billions of dollars each year. Some of the most prevalent HAIs include: Surgical site infections (SSIs), catheter-associated urinary tract infections, central-line associated blood stream infections, and ventilator-associated pneumonia (VAP). It is estimated that CAUTIs affect approximately 250,000 hospital patients per year, and approximately 40,000 CLABSI cases occur annually with a mortality rate from 12 to 25 percent.

From 2008–2012, AHRQ supported the National Implementation of the Comprehensive Unit-Based Safety Program (CUSP) to reduce Central Line-Associated Blood Stream Infections (CLABSI) under an ACTION contract with the Health Research and Educational Trust (HRET), in partnership with Johns Hopkins University and the Michigan Hospital Association. From 2011–2015, AHRQ expanded its CUSP efforts to include the national implementation of CUSP for CAUTI in hospitals across the United States. This effort was carried out under an ACTION II contract with HRET, in partnership with Johns Hopkins University and the Michigan Hospital Association.

As part of the Department of Health and Human Services National Action Plan to Prevent Healthcare-Associated Infections, AHRQ has supported the implementation and adoption of the CUSP for CLABSI and CUSP for CAUTI, and is applying the principles and concepts that have been learned from these HAI reduction efforts to ICUs with persistently elevated infection rates.

## Results of Implementation of CUSP for CLABSI and CAUTI

The nationwide CUSP for CLABSI project was implemented with teams at more than 1,100 adult ICUs in 44 states over a 4-year period. ICUs participating in this project reduced the rate of CLABSIs nationally from 1.915 infections per 1,000 central line days to 1.133 infections per 1,000 line days, an overall reduction of 41 percent. However, not all ICUs performed equally well.

The CUSP for CAUTI project implemented CUSP in nine cohorts, representing over 1,600 hospital units in over 1,200 hospitals located across 40 states, the District of Columbia, and Puerto Rico. Inpatient CAUTI rates in non-ICUs were decreased by 30%. However, CAUTI rates in ICUs were not reduced significantly.

In other words, while the overall results of the implementation of CUSP for CLABSI and CUSP for CAUTI have shown remarkable progress, not all ICUs in the projects have achieved the intended rate reductions, nor have all ICUs participated in the two projects. Moreover, a significant number of institutions and ICUs continue to have persistently elevated infection rates. There are institutions that have varying rates of infections within the same institution, indicating that infection control is often a unit-based issue.

In sum, despite the significant overall reductions in CLABSI and CAUTI rates that have been achieved in these two projects, there is evidence that ICUs have generally faced challenges in reducing CAUTI rates, and that many hospitals still are not where they should be in reducing CLABSI rates. Modified approaches and strategies for the CUSP intervention need to be developed and implemented to reach ICUs with persistently elevated CLABSI and CAUTI rates and help them succeed in preventing these infections. To address this need, AHRQ will launch this project aimed at spreading nationally implementation of an adaptation of CUSP for CLABSI and CAUTI for ICUs with persistently elevated rates, optimizing the approach to maximize effectiveness and further preventing these infections throughout the United States.

This project has the following goals:

- Reduce CLABSI and CAUTI in ICUs with persistently elevated rates.

- Revise and augment current CUSP training resources and materials for CUSP for CLABSI and CAUTI in ICUs with persistently elevated rates. The resulting toolkit will be intended for use in ICUs whose infection rates for either or both of these HAIs are persistently elevated compared to other ICUs.

- Recruit 450–600 ICUs nationally with persistently elevated rates to demonstrate the utility of applying a modified CUSP for CLABSI and CUSP for CAUTI during the performance period to reduce rates of CLABSI and CAUTI in these ICUs.

- Assess the adoption of the modified CUSP for CLABSI and CAUTI and evaluate the effectiveness of the intervention in the participating ICUs.

This study is being conducted by AHRQ through its contractor HRET. *Expanding the Comprehensive Unit-based Safety Program (CUSP) to reduce Central Line-Associated Blood Stream Infections (CLABSI) and Catheter-Associated Urinary Tract Infections (CAUTI) in Intensive Care Units (ICU) with persistently elevated infection rates* is being undertaken pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

## Method of Collection

To achieve the goals of this project the following data collections will be implemented:

(1) *ICU Assessment Tool*: The ICU assessment tool will be completed by the unit project team leader in collaboration with individuals with strong knowledge of current clinical and safety practices in the ICU, such as the ICU manager, infection preventionist, quality leader, clinical educator, or clinical nurse specialist at the start of the cohort. The purpose of this assessment is to understand current HAI prevention practices, policies, and procedures to tailor the educational program to meet the needs of the ICU. The assessment also addresses unit safety culture and CUSP safety practices with questions from the AHRQ Team Checkup Tool. Results from this assessment will be one of the key tools

participating ICUs will use in developing their action plans.

(2) *Action plans*: After completing and receiving the results of their ICU assessment, the unit team members (such as the ICU manager, quality leader, clinical educator, or clinical nurse specialist) will complete an action plan. The unit team will be encouraged to use other data sources (e.g., CAUTI and/or CLABSI rates from the National Healthcare Safety Network [NHSN], culture assessments) to identify gaps that they plan to address through participation in the project. ICU teams, with coaching support from their state lead, clinical mentor, and subject matter experts, will determine which educational materials will help the ICU achieve its action plan goals. ICU teams, state leads, and clinical mentors will refer to these action plans to monitor progress in achieving the goals.

(3) *Site Visits*: State leads and clinical mentors will coordinate state-level, in-person site visits for 200 participating hospital units over the entire project. Site visits are an opportunity for state leads and clinical mentors to meet with ICU teams and their leadership to strengthen relationships, engage in open discussion about infection prevention, and discuss the unit's progress in implementing its action plan. The Site Visit Guidance document helps state leads identify ICUs to visit, plan agendas, schedule visits, prepare for visits, and plan discussion questions.

This data collection effort will be part of a comprehensive evaluation strategy to assess the adoption of the Expansion of the Comprehensive Unit-Based Safety Program (CUSP) for CLABSI and CAUTI in ICUs with persistently elevated rates; measure the effectiveness of the interventions in the participating units; and evaluate the characteristics of teams that are associated with successful implementation and improvements in outcomes.

The evaluation of this data collection is largely foundational in nature as AHRQ seeks information on the implementation and effectiveness of the CUSP for CLABSI and CAUTI in ICUs with persistently elevated rates. The evaluation of the tools above will utilize a pre-post design, comparing practices, policies and procedures before and after participating in the program.

## Estimated Annual Respondent Burden



## EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
ICU Assessment .....	150	1	1.25	187.5
ICU Action Plan .....	150	1	2	300
Site Visits .....	100	1	4	400
Total .....	400	N/A	N/A	887.5

## EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
ICU Assessment Tool .....	150	187.5	<sup>a</sup> \$52.58	\$9,858.75
ICU Action Plan .....	150	300	<sup>a</sup> 52.58	15,774
Site Visits .....	100	100	<sup>b</sup> 27.87	2,787
		200	<sup>c</sup> 34.70	6,940
		50	<sup>a</sup> 52.58	2,629
		50	<sup>d</sup> 98.83	4,941.50
Total .....	400	887.5	N/A	42,930.25

<sup>a</sup>Based on the mean wages for 11–9111 *Medical and Health Services Managers*.

<sup>b</sup>Based on the mean wages for 29–9099 *Miscellaneous Health Practitioners and Technical Workers: Healthcare Practitioners and Technical Workers, All Other*.

<sup>c</sup>Based on the mean wages for 29–1141 *Registered Nurse*.

<sup>d</sup>Based on the mean wages for 29–1069 *Physicians and Surgeons, All other*.

National Compensation Survey: Occupational wages in the United States May 2016 “U.S. Department of Labor, Bureau of Labor Statistics:” [http://www.bls.gov/oes/current/oes\\_stru.htm](http://www.bls.gov/oes/current/oes_stru.htm).

## Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ’s information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ’s health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ’s estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency’s subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

**Karen J. Migdail,**  
Chief of Staff.

[FR Doc. 2018–02289 Filed 2–5–18; 8:45 am]

BILLING CODE 4160–90–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

## Advisory Committee on Immunization Practices (ACIP)

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public, limited only by room seating. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt is February 14, 2018. Written comments must include full name, address, organizational affiliation, email address of the speaker, topic being addressed and specific comments. Written comments must not exceed one single-spaced typed page with 1-inch margins containing all items above. Only those written comments

received 10 business days in advance of the meeting will be included in the official record of the meeting. Public comments made in attendance must be no longer than 3 minutes and the person giving comments must attend the public comment session at the start time listed on the agenda. Time for public comments may start before the time indicated on the agenda. The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP website: <http://www.cdc.gov/vaccines/acip/index.html>.

**DATES:** The meeting will be held on February 21, 2018, 8:00 a.m. to 5:45 p.m., EDT, and February 22, 2018, 8:00 a.m. to 12:30 p.m. EDT.

**ADDRESSES:** CDC, 1600 Clifton Road, NE, Tom Harkin Global Communications Center, Kent ‘Oz’ Nelson Auditorium, Atlanta, Georgia 30329.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Thomas, ACIP Committee Management Specialist, CDC, NCIRD. Email [ACIP@cdc.gov](mailto:ACIP@cdc.gov).

## SUPPLEMENTARY INFORMATION:

**Purpose:** The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the

list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the Director of the Centers for Disease Control and Prevention and appear on CDC immunization schedules must be covered by applicable health plans.

**Matters To Be Considered:** The agenda will include discussions on Influenza vaccines, evidence based recommendations, anthrax vaccine, Japanese encephalitis vaccines, hepatitis vaccines, human papillomavirus vaccines, pneumococcal vaccines, meningococcal disease, and an update on vaccines and other biologics for prevention and treatment of healthcare-associated infections. A recommendation vote is scheduled for hepatitis vaccines and evidence based recommendations. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2018-02268 Filed 2-5-18; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Service Administration

#### Advisory Committee on Heritable Disorders in Newborns and Children

**AGENCY:** Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice; correction.

**SUMMARY:** This notice announces a correction to the meeting announcement for a public meeting of the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC), published in the **Federal Register** on January 22, 2018. The meeting has changed from a two-day meeting to a

one-day meeting, to be held on Thursday, February 8, 2018. Agenda items have been updated and will include a final evidence-based review report on the spinal muscular atrophy (SMA) condition nomination for possible inclusion on the Recommended Uniform Screening Panel (RUSP). Following this report, the ACHDNC expects to vote on whether to recommend adding SMA to the RUSP to the Secretary of HHS. The agenda will also include presentation of a document on cutoff determinations and risk assessment methods used for dried bloodspot newborn screening. The Committee expects to vote on whether to support this document. The ACHDNC members will also consider a report on Quality Measures in Newborn Screening from the Follow up and Treatment Workgroup. HRSA will post the agenda two days prior to the meeting on the Committee's website: <https://www.hrsa.gov/advisory-committees/heritable-disorders/index.html>. Please note that agenda items are subject to changes as priorities dictate.

**DATES:** Thursday, February 8, 2018, from 8:30 a.m. to 3:00 p.m. ET (meeting time is tentative).

**ADDRESSES:** The address for the meeting is 5600 Fishers Lane, 5th Floor Pavilion, Rockville, MD 20857. Participants may also access the meeting through Webcast. Advanced registration is required. Please register online at <http://www.achdncmeetings.org/> by 12:00 p.m. ET on February 5, 2018. Instructions on how to access the meeting via Webcast will be provided upon registration.

Please note that the 5600 Fishers Lane building requires security screening on entry. Visitors must provide a driver's license, passport, or other form of government-issued photo identification or they cannot enter the facility. Per the original meeting notice, non-US Citizens planning to attend in person had to provide additional information to HRSA by January 24, 2018, 12:00 p.m. Eastern Time.

#### FOR FURTHER INFORMATION CONTACT:

Anyone requesting information regarding the ACHDNC should contact Ann Ferrero, Maternal and Child Health Bureau (MCHB), HRSA, in one of three ways: (1) Send a request to the following address: Ann Ferrero, MCHB, HRSA 5600 Fishers Lane, Room 18N100C, Rockville, MD 20857; (2) call 301-443-3999; or (3) send an email to: [AFerrero@hrsa.gov](mailto:AFerrero@hrsa.gov).

*Correction: Date and time of the ACHDNC's public meeting. The meeting*

*will now be held on Thursday, February 8, 2018, from 8:30 a.m. to 3:00 p.m. ET.*

**Amy McNulty,**

*Acting Director, Division of the Executive Secretariat.*

[FR Doc. 2018-02306 Filed 2-5-18; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Minority Health and Health Disparities; 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 materials, 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 on Minority Health and Health Disparities Special Emphasis Panel; Special Emphasis Panel (R13) Conferences Grants.

**Date:** March 16, 2018.

**Time:** 1:00 p.m. to 4:00 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health NIMHD, 7201 Wisconsin Ave., Suite 533, Bethesda, MD 20814.

**Contact Person:** Richard C. Palmer, DRPH, Health Scientist Administrator, National Institute on Minority Health and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave, Bethesda, MD 20814, (301) 451-2432, [richard.palmer@nih.gov](mailto:richard.palmer@nih.gov).

**Dated:** January 31, 2018.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-02279 Filed 2-5-18; 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: Addictions, Depression, Bipolar Disorder, and Schizophrenia.

*Date:* February 16, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

*Contact Person:* Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437-0911, [kramerkm@csr.nih.gov](mailto:kramerkm@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Biochemistry and Biophysics of Biological Macromolecules Fellowship Applications.

*Date:* March 1–2, 2018.

*Time:* 11:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-435-1504, [sudha.veeraraghavan@nih.gov](mailto:sudha.veeraraghavan@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Cell and Molecular Biology.

*Date:* March 6–7, 2018.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Amy Kathleen Wernimont, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, Bethesda, MD 20892, 301-827-6427, [amy.wernimont@nih.gov](mailto:amy.wernimont@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Intervention and Communication for Cancer Patients, Caregivers, and Communities.

*Date:* March 6, 2018.

*Time:* 8:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* John H. Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435-0628, [newmanjh@csr.nih.gov](mailto:newmanjh@csr.nih.gov).

*Name of Committee:* AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.

*Date:* March 6, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.

*Contact Person:* Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435-1166, [roebuckk@csr.nih.gov](mailto:roebuckk@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Eukaryotic Parasites and Vector.

*Date:* March 6–7, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Fouad A. El-Zaatar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435-1149, [elzaataf@csr.nih.gov](mailto:elzaataf@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Biomaterials, Delivery, and Nanotechnology.

*Date:* March 6–7, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404-7419, [rosenzweig@csr.nih.gov](mailto:rosenzweig@csr.nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 31, 2018.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-02275 Filed 2-5-18; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

*Date:* March 1, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Downtown DC, 1199 Vermont Avenue, Washington, DC 20005.

*Contact Person:* Helen Huang, Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710 Rockledge Drive, Bethesda, MD 20892, 301-435-8207, [helen.huang@nih.gov](mailto:helen.huang@nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel; Global Network for Women's and Children's Health Research: Clinical Research Units.

*Date:* March 2, 2018.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6710 Rockledge Drive, Bethesda, MD 20892, 301-496-1487, [anandr@mail.nih.gov](mailto:anandr@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Subcommittee.

*Date:* March 2, 2018.

*Time:* 8:30 a.m. to 5:00 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:* Joanna Kubler-Kielb, Ph.D., Scientific Review Officer, Scientific

Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710 Rockledge Drive, Bethesda, MD 20892-7510, 301-435-6916, [kielbj@mail.nih.gov](mailto:kielbj@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group; Pediatrics Subcommittee.  
*Date:* March 16, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda Downtown, 7335 Wisconsin Ave., Bethesda, MD.

*Contact Person:* Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6710 Rockledge Drive, Bethesda, MD 20892, 301-496-1487, [anandr@mail.nih.gov](mailto:anandr@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel.

*Date:* March 18, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6710 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Sathasiva B. Kandasamy, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6710 Rockledge Drive, Bethesda, MD 20892-9304, (301) 435-6680, [skandasa@mail.nih.gov](mailto:skandasa@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Subcommittee.

*Date:* March 22, 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:* Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710 Rockledge Drive, Bethesda, MD 20892, 301-435-6878, [wedeenc@mail.nih.gov](mailto:wedeenc@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel; Best Pharmaceuticals for Children Act Pediatric Trials Network.

*Date:* March 28, 2018.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6710 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Sathasiva B. Kandasamy, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6710 Rockledge Drive, Bethesda, MD 20892-9304, (301) 435-6680, [skandasa@mail.nih.gov](mailto:skandasa@mail.nih.gov).

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel.

*Date:* March 29-30, 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:* Dennis E. Leszczynski, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6710 Rockledge Drive, Bethesda, MD 20892, (301) 435-6884, [leszczyd@mail.nih.gov](mailto:leszczyd@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 31, 2018.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-02278 Filed 2-5-18; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings of the NHLBI Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; R38: Stimulating Access to Research in Residency (StARR).

*Date:* March 15, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 7189, Bethesda, MD

20892, 301-827-7911, [lindsay.garvin@nih.gov](mailto:lindsay.garvin@nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; CLTR Conflict Meeting.

*Date:* March 29, 2018.

*Time:* 8:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892-7924, 301-827-7942, [lismerin@nhlbi.nih.gov](mailto:lismerin@nhlbi.nih.gov).

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trial Pilot Studies (R34).

*Date:* March 29-30, 2018.

*Time:* 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892-7924, 301-827-7942, [lismerin@nhlbi.nih.gov](mailto:lismerin@nhlbi.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 31, 2018.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-02277 Filed 2-5-18; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; 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 Eye Institute Special Emphasis Panel; NEI Mentored Career Development Award Applications (K08 and K23).

*Date:* March 1–2, 2018.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, [aes@nei.nih.gov](mailto:aes@nei.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

*Dated:* February 1, 2018.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018–02366 Filed 2–5–18; 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 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:* Center for Scientific Review Special Emphasis Panel; Palliative Care Special Emphasis Panel.

*Date:* February 9, 2018.

*Time:* 2:00 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 (Telephone Conference Call).

*Contact Person:* Karin F. Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7770, Bethesda, MD 20892, 301–254–9975, [helmersk@csr.nih.gov](mailto:helmersk@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

*Dated:* January 31, 2018.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018–02276 Filed 2–5–18; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[Docket No. USCBP–2018–0004]

#### Commercial Customs Operations Advisory Committee (COAC)

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

**ACTION:** Committee management; notice of Federal advisory committee meeting.

**SUMMARY:** The Commercial Customs Operations Advisory Committee (COAC) will hold its quarterly meeting on Wednesday, February 28, 2018, in Miami, Florida. The meeting will be open to the public.

**DATES:** The COAC will meet on Wednesday, February 28, 2018, from 1:00 p.m. to 5:00 p.m. EST. Please note that the meeting may close early if the committee has completed its business.

**ADDRESSES:** The meeting will be held at the DoubleTree Hotel, 711 NW 72nd Avenue, Miami, FL 33126. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs & Border Protection, at (202) 344–1440 as soon as possible.

**Pre-Registration:** Meeting participants may attend either in person or via webinar after pre-registering using one of the methods indicated below:

For members of the public who plan to attend the meeting in person, please register by 5:00 p.m. EST February 27, 2018, either online at [https://apps.cbp.gov/te\\_reg/index.asp?w=124](https://apps.cbp.gov/te_reg/index.asp?w=124); by email to [tradeevents@dhs.gov](mailto:tradeevents@dhs.gov); or by fax to (202) 325–4290. You must register prior to the meeting in order to attend the meeting in person.

For members of the public who plan to participate via webinar, please register online at [https://apps.cbp.gov/te\\_reg/index.asp?w=123](https://apps.cbp.gov/te_reg/index.asp?w=123) by 5:00 p.m. EST, February 27, 2018.

Please feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered to attend and later need to cancel, please do so by February 27, 2018, utilizing the following links: [https://apps.cbp.gov/te\\_reg/cancel.asp?w=124](https://apps.cbp.gov/te_reg/cancel.asp?w=124) to cancel an in person registration or [https://apps.cbp.gov/te\\_reg/cancel.asp?w=123](https://apps.cbp.gov/te_reg/cancel.asp?w=123) to cancel a webinar registration.

To facilitate public participation, we are inviting public comment on the issues the committee will consider prior to the formulation of recommendations as listed in the Agenda section below.

Comments must be submitted in writing no later than February 26, 2018, and must be identified by Docket No. USCBP–2018–0004, and may be submitted by one (1) of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** [tradeevents@dhs.gov](mailto:tradeevents@dhs.gov).

Include the docket number in the subject line of the message.

- **Fax:** (202) 325–4290, Attention Florence Constant-Gibson.

- **Mail:** Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229.

**Instructions:** All submissions received must include the words “Department of Homeland Security” and the docket number (USCBP–2018–0004) for this action. Comments received will be posted without alteration at <http://www.regulations.gov>. Please do not submit personal information to this docket.

**Docket:** For access to the docket or to read background documents or comments, go to <http://www.regulations.gov> and search for Docket Number USCBP–2018–0004. To submit a comment, click the “Comment Now!” button located on the top-right hand side of the docket page.

There will be multiple public comment periods held during the meeting on February 28, 2018. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page, <http://www.cbp.gov/trade/stakeholder-engagement/coac>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Florence Constant-Gibson, Office of

Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229; telephone (202) 344-1440; facsimile (202) 325-4290; or Mr. Bradley Hayes, Executive Director and Designated Federal Officer at (202) 344-1440.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix. The Commercial Customs Operations Advisory Committee (COAC) provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within the Department of Homeland Security and the Department of the Treasury.

### Agenda

The COAC will hear from the following subcommittees on the topics listed below and then will review, deliberate, provide observations, and formulate recommendations on how to proceed:

1. The Trusted Trader Subcommittee will present an update from the C-TPAT Minimum Security Criteria Working Group on its recommendations regarding CBP's plans to roll out new C-TPAT criteria. The subcommittee will also provide an update on the progress on the Trusted Trader Strategy.

2. The One U.S. Government Subcommittee will continue discussions on the progress of the Fish & Wildlife Service Working Group and will present the white paper on the Harmonized Tariff Schedule project. The subcommittee will also discuss an update from CBP's Trade Transformation Office on ACE Deployment G Release 4 and also from the Technical and Operational Outages Working Group.

3. The Exports Subcommittee will discuss the final work of the Export Manifest Working Group, which has been developing comprehensive recommendations on the following topics: Timelines, filing regime, targeting regime, hold issuance and shipment interception process, and an account-based penalties regime. There will also be an update on the automated export manifest pilots, and on progress in implementing a post-departure filing pilot as part of the ocean pilot.

4. The Trade Modernization Subcommittee will discuss the International Engagement and Trade Facilitation Working Group's efforts to prioritize the recommendations it made in 2017. The subcommittee will discuss

the establishment of the Regulation Modernization Working Group and its efforts to identify and prioritize areas of regulations administered by CBP that can be reformed. In addition, the subcommittee will discuss the establishment of the Trade Facilitation and Trade Enforcement Act (TFTEA) Educational Mandate Working Group that will identify educational opportunities as referenced in Section 104 of TFTEA. Finally, the subcommittee will discuss the progress being made in the e-Commerce Working Group.

5. The Global Supply Chain Subcommittee will present the status of a pilot that will test the utilization of existing Automated Commercial Environment (ACE) automation in the pipeline mode of transportation. The committee will also discuss the progress of the Global Supply Chain Subcommittee's Emerging Technologies Working Group. The subcommittee will discuss the activities of the newly formed In-Bond Working Group that will focus on identifying issues within the scope of the "Changes to the In-Bond Process" final rule published in the **Federal Register** on September 28, 2017 regarding their implementation.

6. The Trade Enforcement & Revenue Collection (TERC) Subcommittee will provide necessary updates from the Anti-Dumping and Countervailing Duty, Bond, Forced Labor and Intellectual Property Rights Working Groups.

Meeting materials will be available by February 23, 2018 at: <http://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings>.

Dated: January 31, 2018.

**Bradley F. Hayes,**

*Executive Director, Office of Trade Relations.*

[FR Doc. 2018-02297 Filed 2-5-18; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2017-N159;

FXES11140200000-189-FF02ENEH00]

### American Burying Beetle Habitat Conservation Plan and Low-Effect Screening Form; Fixico Point-of-Delivery to Weleetka, Hughes, Okfuskee, and Seminole Counties, OK

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of documents and request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the

availability of several documents related to an incidental take permit (ITP) application under the Endangered Species Act of 1973, as amended. American Electric Power applied for the requested ITP, which would be in effect for a three-year period in Hughes, Okfuskee, and Seminole Counties, Oklahoma. If granted, the permit would authorize American burying beetle incidental take resulting from rebuilding two portions of the Fixico point of delivery to Weleetka electric transmission line. The documents available for comment include the low-effect screening form that supports a categorical exclusion under the National Environmental Policy Act of 1969, a draft low-effect habitat conservation plan, and the ITP application.

**DATES:** *Comments:* We are accepting comments on the documents listed above in the **SUMMARY** section. To ensure consideration, written comments must be received or postmarked on or before March 8, 2018. Any comments we receive after the closing date may not be considered in this action's final decisions.

### ADDRESSES: *Obtaining documents:*

- *Internet:* You may obtain copies of the documents related to this ITP application on the internet from the Service's website at <http://www.fws.gov/southwest/es/Oklahoma/>.

- *U.S. mail:* A limited number of CD-ROM and printed copies of the draft documents are available, by request, from the Field Supervisor, Oklahoma Ecological Services Field Office, 9014 East 21st Street, Tulsa, OK 74129; telephone 918-382-4500. Please note that your request is in reference to the AEP LEHCP (TE55026C-0).

- *In-person:* Copies of the draft low-effect screening form and draft habitat conservation plan also are available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:

- Department of the Interior, Natural Resources Library, 1849 C. Street NW, Washington, DC 20240.

- U.S. Fish and Wildlife Service, 500 Gold Avenue SW, Room 6034, Albuquerque, NM 87102.

- U.S. Fish and Wildlife Service, 9014 East 21st Street, Tulsa, OK 74129; by calling 918-382-4500; or faxing 918-581-7467.

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103, Attention: Branch Chief, Environmental Review.

**Comment submission:** You may submit written comments on the low-effect screening form, the draft low-effect habitat conservation plan, and the ITP application by one of the following methods:

- **Electronically:** [fw2\\_hcp\\_permits@fws.gov](mailto:fw2_hcp_permits@fws.gov).

- **By hard copy:** Submit by U.S. mail or hand-deliver to: U.S. Fish and Wildlife Service, 9014 East 21st Street, Tulsa, OK 74129; or faxing 918-581-7467.

We request that you send comments by only the methods described above.

**FOR FURTHER INFORMATION CONTACT:** Jonna Polk, Field Supervisor, U.S. Fish and Wildlife Service, 9014 East 21st Street, Tulsa, OK 74129; or by telephone at 918-382-4500.

**SUPPLEMENTARY INFORMATION:** Under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), we advise the public that:

1. We, the U.S. Fish and Wildlife Service (Service), have gathered the information necessary to determine impacts related to potentially issuing an incidental take permit (ITP) and have determined the proposed action qualifies as a low-effect habitat conservation plan (HCP) and is categorically excluded from the NEPA process; and

2. American Electric Power (AEP; the Applicant) has developed and proposes to implement its draft HCP, as part of the ITP application, which describes the measures the Applicant has agreed to take to minimize and mitigate the effects of American burying beetle incidental take to the maximum extent practicable under the Endangered Species Act of 1973 (ESA), section 10(a)(1)(B), as amended (16 U.S.C. 1531, *et seq.*).

The requested permit, which would be in effect for a three-year period, if granted, would authorize American burying beetle (*Nicrophorus americanus*) incidental take as a result of rebuilding two portions of the Fixico point of delivery (POD) to Weleetka electric transmission line. The proposed incidental take may occur along 21.5 miles of the existing Fixico POD to Weleetka transmission line in Hughes, Okfuskee, and Seminole Counties, OK, as a result of activities associated with the Applicant's construction (existing pole removal and new pole installation) and maintenance activities. Such actions may require disturbance within potential American burying beetle habitat. American Electric Power has proposed to mitigate the impacts to 124.416 acres of suitable American burying beetle habitat, including 124.4 acres of temporary impacts and 0.016

acres of permanent change. These habitat acres will be mitigated in perpetuity according to Service-approved mitigation ratios through purchasing credits at an approved conservation bank. Additionally, avoidance and minimization measures, including limiting clearing in temporary work areas, relieving soil compaction, and revegetating temporary and permanent cover change impacts with native vegetation will be implemented after construction is completed.

The ESA, section 9 and its implementing regulations prohibit taking fish and wildlife species listed as threatened or endangered under the ESA, section 4. However, the ESA, section 10(a) authorizes us to issue permits to take listed wildlife species where such take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

#### Comments Publicly Availability

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority:** We provide this notice under the ESA, section 10(c) (16 U.S.C. 1531, *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321, *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Joy E. Nicholopoulos,**

*Acting Regional Director, Southwest Region, Albuquerque, New Mexico.*

[FR Doc. 2018-02340 Filed 2-5-18; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLNM920000 18X L51040000.RB0000]

#### Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NMNM111949, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of reinstatement.

**SUMMARY:** In accordance with the Mineral Leasing Act of 1920, Cimarex Energy Company timely filed a petition for reinstatement of competitive oil and gas lease NMNM 11949, Eddy County, New Mexico. The lessee paid the required rentals accruing from July 1, 2014, the date of termination. No leases were issued that affect these lands. The Bureau of Land Management proposes to reinstate this lease.

**FOR FURTHER INFORMATION CONTACT:** Julieann Serrano, Supervisory Land Law Examiner, Branch of Adjudication, Bureau of Land Management New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508, (505) 954-2149, [jserrano@blm.gov](mailto:jserrano@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lessee agrees to new lease terms for rentals and royalties of \$10 per acre, or fraction thereof, per year, and 16-2/3 percent, respectively. The lessee agrees to additional or amended stipulations. The lessee paid the \$500 administration fee for the reinstatement of the lease and \$159 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920. The BLM is proposing to reinstate the lease, effective the date of termination subject to the:

- Original term and conditions of the lease;
- Additional and amended stipulations;
- Increased rental of \$10 per acre;
- Increased royalty of 16-2/3 percent; and
- \$159 cost of publishing this Notice.

**Authority:** 43 CFR 3108.2-3

**Julieann Serrano,**

*Supervisory, Land Law Examiner.*

[FR Doc. 2018-02349 Filed 2-5-18; 8:45 am]

**BILLING CODE 4310-FB-P**



**DEPARTMENT OF THE INTERIOR****Office of Natural Resources Revenue**

[Docket No. ONRR-2011-0009; DS63644000  
DR2000000.CH7000 189D0102R2; OMB  
Control Number 1012-0008]

**Agency Information Collection  
Activities: Submission to the Office of  
Management and Budget for Review  
and Approval; Collection of Monies  
Due the Federal Government**

**AGENCY:** Office of the Secretary, Office  
of Natural Resources Revenue, Interior.

**ACTION:** Notice of extension.

**SUMMARY:** To comply with the  
Paperwork Reduction Act of 1995  
(PRA), the Office of Natural Resources  
Revenue (ONRR), is proposing to renew  
an information collection with revisions  
under 30 CFR part 1218.

**DATES:** Interested persons are invited to  
submit comments on or before March 8,  
2018.

**ADDRESSES:** You may submit your  
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 to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or via facsimile to (202) 395-5806. Please also mail a copy of your comments to Mr. Armand Southall, Regulatory Specialist, ONRR, P.O. Box 25165, MS 64400, Denver, Colorado 80225-0165, or by email to [Armand.Southall@onrr.gov](mailto:Armand.Southall@onrr.gov). Please reference OMB Control Number "1012-0008" in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** For questions on technical issues, contact Mr. Hans Meingast, Financial Services/Financial Management, ONRR, telephone (303) 231-3382, or email to [Hans.Meingast@onrr.gov](mailto:Hans.Meingast@onrr.gov). For other questions, contact Mr. Armand Southall, telephone (303) 231-3221, or email to [Armand.Southall@onrr.gov](mailto:Armand.Southall@onrr.gov). You may also contact Mr. Southall to obtain copies, at no cost, of (1) the ICR, (2) any associated form(s), and (3) the regulations that require us to collect the information. You may review the ICR at <http://www.reginfo.gov/public/do/PRAMain> and select "Information Collection Review," then select "Department of the Interior" in the drop-down box under "Currently Under Review."

**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.

We published a notice, with a 60-day public comment period soliciting comments on this collection of information, in the **Federal Register** on July 24, 2017 (82 FR 34333). We received the following comments from companies regarding the published 60-day **Federal Register** notice. Public Commenter #1 stated the following:

In the San Juan basin where we pay royalties, our recoupment process takes around 2 hours per month, or around 20 hours per year. A colleague who reports royalties in the Williston Basin, however, spends much more time and can have over a day's worth of work associated with tracking and reporting recoupments during the month. The colleague would estimate closer to 70 hours per year.

Public Commenter #2 also stated the following:

I'm sorry. I know I agreed to do this survey, but I find the request takes more time to read than I would like to spend on the entire survey. We have had some unexpected projects come up and I cannot spare the time.

Public Commenter #3 stated the following:

I forwarded your request to CLR legal, for their review; I read the FRN then passed it to our company's lawyers. I have no comments.

Public Commenter #4 also stated the following:

I talked to my Supervisor this morning. Cimarex as a company doesn't comment on items like this. Cimarex in the past, through COPAS/PASO has taken part in discussions on items like this. Cimarex will follow COPAS/PASO's jointly discussed approach. We are not aware of any discussions taking place within COPAS/PASO regarding ICR 1012-0008. Hope this resolves your question.

Once again, we are soliciting comments on this 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 ONRR; (2) will this information be processed and used in a timely manner; (3) is the estimate of the burden accurate; (4) how might ONRR enhance the quality, usefulness, and clarity of the information collected; and (5) how might ONRR 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 Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal identifying information, in your comment(s), you should be aware that your entire comment—including PII—may be made available to the public at any time. While you may ask us, in your comment, to withhold your PII from public view, we cannot guarantee that we will be able to do so.

**Abstract:** The Secretary of the U.S. Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected. ONRR performs the royalty management functions and assists the Secretary in carrying out the Department's responsibility. We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at [http://www.onrr.gov/Laws\\_R\\_D/PubLaws/default.htm](http://www.onrr.gov/Laws_R_D/PubLaws/default.htm).

## **I. General Information**

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, production, and processing methods. When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information collected includes data necessary to ensure that production is accurately valued and that royalties are appropriately paid.

## **II. Information Collections**

This ICR covers unique reporting circumstances, including (1) cross-lease netting in calculation of late-payment interest; (2) designation of a designee; and (3) Tribal permission for recoupment on Indian oil and gas leases.



### A. Cross-Lease Netting in Calculation of Late-Payment Interest

Regulations at § 1218.54 require ONRR to assess interest on unpaid or underpaid amounts. ONRR distributes these interest revenues to States, Indian Tribes, and the U.S. Treasury, based on financial lease distribution information. Current regulations at § 1218.42 provide that an overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine the net payment subject to interest when certain conditions are met. This process is called cross-lease netting. Lessees must demonstrate that cross-lease netting applies by submitting production reports, pipeline allocation reports, or other similar documentary evidence. This information is necessary in order for ONRR to determine the correct amount of interest that the lessee owes and to ensure that lessees are neither undercharged nor overcharged interest.

### B. Designation of Designee

Owners of operating rights are primarily liable for Federal oil and gas royalties and other revenue payments, while owners of record title are secondarily liable (though both are referred to as “lessees”) (see 30 U.S.C. 1712(a) and 30 CFR 1218.52). It is common, however, for a payor—rather than a lessee—to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the

payor as its designee and notify ONRR of this arrangement in writing. We designed form ONRR–4425, Designation Form for Royalty Payment Responsibility, to request all the information necessary for lessees to comply with these RSFA requirements when choosing to designate an agent to pay for them. We require this information to ensure ONRR orders and demands are addressed to and served on the proper parties.

### C. Tribal Permission for Recoupment on Indian Oil and Gas Leases

In order to recoup overpayments made on Tribal Indian oil and gas leases, lessees must comply with regulations at 30 CFR 1218.53(a), which limits recoupments to the amount of royalties or other revenues owed on the same lease that month. However, regulations at 30 CFR 1218.53(b) allow lessees, with written permission from the Tribe, to recoup overpayments on one lease against a different lease for which the Tribe is the lessor. The lessee must provide ONRR with a copy of the Tribe’s written permission.

### III. OMB Approval

We are requesting OMB’s approval to continue to collect this information. Not collecting this information may result in the loss of royalty payments due Federal and Indian lessors. Also, it may deprive lessees of the ability to minimize or avoid interest due when they have offsetting under-reporting and over-

reporting of production. And it would deprive lessees of a right of recoupment of overpayments authorized by Tribes. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

### IV. Data

*Title:* Collection of Monies Due the Federal Government, 30 CFR part 1218.

*OMB Control Number:* 1012–0008.

*Bureau Form Number:* ONRR–4425.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Businesses.

*Total Estimated Number of Annual Respondents:* 31 Federal and Indian lessees.

*Total Estimated Number of Annual Responses:* 31

*Estimated Completion Time per Response:* 4.87 hours.

*Total Estimated Number of Annual Burden Hours:* 151 hours.

*Respondent’s Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

We have not included in our estimates certain requirements performed in the normal course of business that are considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

### RESPONDENTS’ ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR part 1218	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
<b>Subpart A—General Provisions—Cross-lease netting in calculation of late-payment interest.</b>				
1218.42(b) and (c) .....	Cross-lease netting in calculation of late-payment interest. (b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset . . . if . . . the payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information. . . . (c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest is not owed . . . the burden is on the payor to demonstrate that the exception applies. . . .	2	25	50

## RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR part 1218	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
<b>Subpart B—Oil and Gas, General—How does a lessee designate a Designee?</b>				
1218.52(a), (c), and (d) .....	How does a lessee designate a Designee? (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf . . . you must notify ONRR . . . in writing of such designation. . . . (c) If you want to terminate a designation . . . you must provide [the following] to ONRR in writing. . . . (d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership. ONRR currently uses Form ONRR-4425, Designation Form for Royalty Payment Responsibility, to collect this information.	1	1	1
<b>Subpart B—Oil and Gas, General—Recoupment of overpayments on Indian mineral leases.</b>				
1218.53(b) .....	Recoupment of overpayments on Indian mineral leases. (b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed . . . under other leases. . . . A copy of the tribe's written permission must be furnished to ONRR. . . .	20	5	100
Total Burden .....	.....	.....	31	151

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.

*ONRR Information Collection Clearance Officer:* Armand Southall (303) 231-3221.

**Authority:** The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

**Gregory J. Gould,**  
*Director for Office of Natural Resources Revenue.*

[FR Doc. 2018-02299 Filed 2-5-18; 8:45 am]

**BILLING CODE 4335-30-P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Fuel Pump Assemblies Having Vapor Separators and Components Thereof*, DN 3292; the Commission is soliciting comments on

any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint

and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Carter Fuel Systems, LLC on January 31, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain fuel pump assemblies having vapor separators and components thereof. The complaint names as respondent: Wenzhou Jushang (JS) Performance Parts Co. Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, a cease and desist order and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the

United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;
- (iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and
- (v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3292) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures).<sup>1</sup> Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be

treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 1, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2018–02288 Filed 2–5–18; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA–392]

#### **Bulk Manufacturer of Controlled Substances Application: Patheon Pharmaceuticals, Inc.**

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before April 9, 2018.

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on December 11, 2017, Patheon Pharmaceuticals, Inc., 2110 E Galbraith Road, Cincinnati, OH 45237 applied for renewal of their registration as a bulk manufacturer of the Schedule I control substance Gamma Hydroxybutyric Acid (2010) the basic class of controlled substances.

The Gama Hydroxybutyric Acid will be produced during the process of converting gamma-butyrolactone (GBL) into a new product for development. The company plans to manufacture the above listed controlled substance as Active Pharmaceutical Ingredient (API) that will be further synthesized into dosage forms of a new product.

No other activities for this drug code are authorized for this registration.

Dated: January 30, 2018.

**Susan A. Gibson,**

*Deputy Assistant Administrator.*

[FR Doc. 2018–02345 Filed 2–5–18; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA–392]

#### **Bulk Manufacturer of Controlled Substances Application: Chattem Chemicals, Inc.**

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

comments on or objections to the issuance of the proposed registration on or before April 9, 2018.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division ("Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 21, 2017, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Chattanooga, Tennessee 37409 applied to be registered as a bulk manufacturer for the basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana .....	7360	I
Tetrahydrocannabinols ...	7370	I
4-Methoxyamphetamine .....	7411	I
Dihydromorphine .....	9145	I
Amphetamine .....	1100	II
Methamphetamine .....	1105	II
Lisdexamfetamine .....	1205	II
Methylphenidate .....	1724	II
Pentobarbital .....	2270	II
Codeine .....	9050	II
Dihydrocodeine .....	9120	II
Oxycodone .....	9143	II
Hydromorphone .....	9150	II
Hydrocodone .....	9193	II
Meperidine .....	9230	II
Meperidine intermediate-A.	9232	II
Meperidine intermediate-B.	9233	II
Meperidine intermediate-C.	9234	II
Methadone .....	9250	II
Methadone intermediate	9254	II
Morphine .....	9300	II
Oripavine .....	9330	II
Thebaine .....	9333	II
Opium tincture .....	9630	II
Opium, powdered .....	9639	II
Opium, granulated .....	9640	II
Oxymorphone .....	9652	II

Controlled substance	Drug code	Schedule
Noroxymorphone .....	9668	II
Alfentanil .....	9737	II
Remifentanil .....	9739	II
Sufentanil .....	9740	II
Tapentadol .....	9780	II
Fentanyl .....	9801	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers.

In reference to drug codes 7360 (marihuana) and 7370 (tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Dated: January 30, 2018.

**Susan A. Gibson,**

*Deputy Assistant Administrator.*

[FR Doc. 2018-02343 Filed 2-5-18; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-392]

#### Bulk Manufacturer of Controlled Substances Application: Cedarburg Pharmaceuticals

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 9, 2018.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion

Control Division ("Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on August 29, 2017, Cedarburg Pharmaceuticals, Inc., A Division of Albany Molecular Research Inc. (AMRI), 870 Badger Circle, Grafton, Wisconsin 53024 applied to be registered as a bulk manufacturer the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana .....	7360	I
Tetrahydrocannabinols ...	7370	I
Lisdexamfetamine .....	1205	II
Pentobarbital .....	2270	II
Nabilone .....	7379	II
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Remifentanil .....	9739	II
Fentanyl .....	9801	II

The company plans to manufacture the above listed controlled substances in bulk for distribution to its customers. In reference to drug codes 7360 marihuana, the company plans to bulk manufacture cannabidiol as a synthetic intermediate. The company plans to manufacture bulk active pharmaceutical ingredients (API) for distribution to its customers. This controlled substance will be further synthesized to bulk manufacture a synthetic tetrahydrocannabinols 7370. No other activity for this drug code is authorized for this registration.

Dated: January 30, 2018.

**Susan A. Gibson,**

*Deputy Assistant Administrator.*

[FR Doc. 2018-02341 Filed 2-5-18; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Notice of Proposed Settlement Agreement and Draft Restoration Plan Under The Oil Pollution Act of 1990, and The Clean Water Act

Notice is hereby given that the United States of America, on behalf of the Department of the Interior ("DOI") acting through the Fish and Wildlife Service and the National Park Service, the District of Columbia, on behalf of the Department of Energy and Environment, and the Commonwealth of Virginia, acting through the Virginia Department of Environmental Quality (collectively "Trustees"), are providing an opportunity for public comment on a proposed Settlement Agreement ("Settlement Agreement") among the DOI, the District of Columbia, the Commonwealth of Virginia, and

Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion Energy"). The Trustees are also providing notice of an opportunity for public comment on a draft Damage Assessment and Restoration Plan ("draft DARP").

The settlement resolves the civil claims of DOI, the District of Columbia, and the Commonwealth of Virginia against Dominion Energy arising under their natural resource trustee authority under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, the natural resource damages provisions of the Clean Water Act, 33 U.S.C. 1321(f)(4) and (5), and applicable state law for injury to, impairment of, destruction of, and loss of use of natural resources as a result of a January 24, 2016 oil spill at the Dominion Energy Crystal City Substation located in Arlington, Virginia ("Oil Spill"). The Oil Spill occurred when a transformer tank ruptured at the Crystal City Substation, spilling approximately 13,500 gallons of mineral oil dielectric fluid, most of which was recovered from the Substation's containment facility and through response action. The NPS is also acting under its authority under the System Unit Resource Protection Act System, 54 U.S.C. 100723. Further, in accordance with the OPA the Trustees have written a draft DARP that describes proposed alternatives for restoring the natural resources and natural resource services injured by the Oil Spill.

Under the proposed Settlement Agreement, Dominion Energy agrees to pay \$390,385 to the DOI Natural Resource Damage Assessment and Restoration Fund, (established by 43 U.S.C. 1474b), to be used to restore, replace, rehabilitate or acquire the equivalent of, those resources injured by the Oil Spill and to compensate the public for lost recreational opportunities, as proposed in the draft DARP. Dominion Energy will receive from the Trustees a covenant not to sue for the claims resolved by the settlement, including assessment costs.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement and draft DARP. The Trustees will receive comments relating to the Settlement Agreement and draft DARP for a period of thirty (30) days from the date of this publication. A copy of the proposed Settlement Agreement and the draft DARP are available electronically at <https://parkplanning.nps.gov/projectHome.cfm?projectID=75342>. A copy of the proposed Settlement Agreement and draft DARP may be examined at the George Washington

Memorial Parkway office. Arrangements to view the documents must be made in advance by contacting the Natural Resource Division at (703) 289-2500. A copy of the Settlement Agreement only may also be obtained by mail from:

Assistant Solicitor, Environmental Restoration Branch, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240.

Please reference: Dominion Energy Virginia Crystal City Substation Settlement Agreement, DOI-SOL-ERB-2018-001. When requesting a copy of the Settlement Agreement please enclose a check in the amount of \$3.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Comments on the proposed Settlement Agreement and/or the draft DARP may be submitted electronically at <https://parkplanning.nps.gov/projectHome.cfm?projectID=75342>. Additionally, written comments on the proposed Settlement Agreement and/or draft DARP should be addressed to Superintendent, George Washington Memorial Parkway Headquarters, Attn. Dominion DARP, 700 George Washington Memorial Parkway, McLean, VA 22101.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2018-02263 Filed 2-5-18; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Parole Commission

#### Sunshine Act Meeting

**TIME AND DATE:** 12:00 a.m., Tuesday, February 13, 2018.

**PLACE:** U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC.

**STATUS:** Closed.

#### **MATTERS TO BE CONSIDERED:**

Determination on TWO original jurisdiction cases.

#### **CONTACT PERSON FOR MORE INFORMATION:**

Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC 20530, (202) 346-7001.

Dated: February 2, 2018.

**Patricia K. Cushwa,**

*Vice Chairman, U.S. Parole Commission.*

[FR Doc. 2018-02450 Filed 2-2-18; 4:15 pm]

**BILLING CODE 4410-31-P**

## DEPARTMENT OF JUSTICE

### Parole Commission

#### Sunshine Act Meeting

**TIME AND DATE:** 11:00 a.m. Tuesday, February 13, 2018.

**PLACE:** U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Approval of September 26, 2017 minutes; Reports from the Vice Chairman, Commissioners and Senior Staff; Discussion of potential amendment to 28 CFR 2.25 to permit hearings by videoconference to include parole and supervised release termination hearings; Discussion of potential modification of 28 CFR 2.68(i)(1) to require one Commissioner vote for Transfer Treaty determinations.

#### **CONTACT PERSON FOR MORE INFORMATION:**

Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC 20530, (202) 346-7010.

Dated: February 2, 2018.

**Patricia K. Cushwa,**

*Vice Chairman, U.S. Parole Commission.*

[FR Doc. 2018-02448 Filed 2-2-18; 4:15 pm]

**BILLING CODE 4410-31-P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting; National Science Board

The National Science Board's Committee on External Engagement (EE), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n-5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

**TIME AND DATE:** Thursday, February 8, 2018 at 10:00-11:00 a.m. EST.

**PLACE:** This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. An audio link will be available for the public. Members of the public must contact the Board Office to request the public audio link by sending an email to [nationalsciencebrd@nsf.gov](mailto:nationalsciencebrd@nsf.gov) at least 24 hours prior to the teleconference.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Discuss possible future National Science Board listening sessions as well as other priorities in preparation for the February board meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Nadine Lymn ([nlymn@nsf.gov](mailto:nlymn@nsf.gov)), 2415 Eisenhower Avenue, Alexandria, VA 22314. Meeting information and updates may be found at <http://www.nsf.gov/nsb/notices/.jsp#sunshine>. Please refer to the National Science Board website at [www.nsf.gov/nsb](http://www.nsf.gov/nsb) for general information.

**Chris Blair,**

*Executive Assistant to the National Science Board Office.*

[FR Doc. 2018-02456 Filed 2-2-18; 4:15 pm]

**BILLING CODE 7555-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on AP1000; Notice of Meeting

The ACRS Subcommittee on AP1000 will hold a meeting on February 7, 2018, at 11545 Rockville Pike, Room T-2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

**Wednesday, February 7, 2018—1:00 p.m. Until 5:00 p.m.**

The Subcommittee will review Westinghouse topic report, WCAP-17938-P, Rev. 2, "AP1000 In-Containment Cables and Non-Metallic Insulation Debris Integrated Assessment." The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301-415-6279 or Email: [Weidong.Wang@nrc.gov](mailto:Weidong.Wang@nrc.gov)) one day prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this

timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 301-415-6207) to be escorted to the meeting room.

Dated: February 1, 2018.

**Mark L. Banks,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguard.*

[FR Doc. 2018-02312 Filed 2-5-18; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2018-0011]

### Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of three amendment requests. The amendment requests are for Nine Mile Point Nuclear Station, Unit 2; R.E. Ginna Nuclear Power Plant; and Hope Creek Generating Station. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI) an order imposes procedures to obtain access to SUNSI for contention preparation.

**DATES:** Comments must be filed by March 8, 2018. A request for a hearing must be filed by April 9, 2018. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by February 16, 2018.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0011. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@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: OWFN-2-A13, 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:

Shirley Rohrer, Office of Nuclear Regulatory Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5411, email: [Shirley.Rohrer@nrc.gov](mailto:Shirley.Rohrer@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2018-0011, facility name, unit number(s), plant docket number, application date, and subject 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-2018-0011.
- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### B. Submitting Comments

Please include Docket ID NRC-2018-0011, facility name, unit number(s), plant docket number, application date, and subject 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

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be

issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

### III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance.

The Commission expects that the need to take this action will occur very infrequently.

#### A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be

limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice.

The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

#### *B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10

days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e->



*submittals.html*, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for

limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

*Exelon Generation Company, LLC, Docket No. 50-410, Nine Mile Point Nuclear Station (NMP2), Unit 2, Oswego County, New York*

*Date of amendment request:* November 3, 2017. A publicly-available version is in ADAMS under Accession No. ML17307A019.

*Description of amendment request:* This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the safety limit (SL) minimum critical power ratios (MCPRs) in Section 2.1.1, "Reactor Core SLs," of the NMP2, Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The derivation of the cycle specific Safety Limit Minimum Critical Power Ratios (SLMCPRs) for incorporation into the Technical Specifications (TS), and their use to determine cycle specific thermal limits, has been performed using the methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 25.

The basis of the SLMCPR calculation is to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs preserve the existing margin to transition boiling.

The MCPR safety limit is reevaluated for each reload using NRC-approved methodologies. The analyses for NMP2, Cycle 17, have concluded that a two-recirculation loop MCPR safety limit of  $\geq 1.17$ , based on the application of Global Nuclear Fuel's NRC-approved MCPR safety limit methodology, will ensure that this acceptance criterion is met. For single recirculation loop operation, a MCPR safety limit of  $\geq 1.17$  also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the NMP2 Core Operating Limits Report (COLR).

The requested TS changes do not involve any plant modifications or operational changes that could affect system reliability or performance or that could affect the probability of operator error. The requested changes do not affect any postulated accident precursors, do not affect any accident

mitigating systems, and do not introduce any new accident initiation mechanisms.

Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The SLMCPR is a TS numerical value, calculated to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs are calculated using NRC-approved methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 25. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Cycle 17 operation. The core operating limits will continue to be developed using NRC-approved methods. The proposed MCPR safety limits or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of the proposed change to the SLMCPRs. The new SLMCPRs are calculated using methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 25. The SLMCPRs ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity.

Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety previously approved by the NRC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* James G. Danna.

*Exelon Generation Company, LLC,  
Docket No. 50–244, R. E. Ginna Nuclear  
Power Plant (Ginna), Wayne County,  
New York*

*Date of amendment request:*

November 16, 2017. A publicly-available version is in ADAMS under Accession No. ML17321A107.

*Description of amendment request:*

This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Ginna's Technical Specifications for selected Reactor Trip System (RTS) and Engineered Safety Feature Actuation System (ESFAS) instrumentation channels. The change would allow selected RTS (Table 3.3.1–1) and ESFAS instrumentation channels (Table 3.3.2–1) to be bypassed during surveillance testing. Additionally, the change would allow RTS and ESFAS input relays to be excluded from the Channel Operational Test. The change would allow testing of Nuclear Instrumentation System power range functions, which are part of the RTS, with a permanently installed bypass capability, while other RTS and ESFAS functions will be capable of being bypassed utilizing permanent connections in the racks to connect a portable test box.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Reactor Trip System (RTS) and Engineered Safety Feature Actuation System (ESFAS) provide plant protection and are part of the accident mitigation response. The RTS and ESFAS functions do not themselves act as a precursor or an initiator for any transient or design basis accident; therefore, the proposed change does not significantly increase the probability of any accident previously evaluated.

The structural and functional integrity of the RTS and ESFAS, or any other plant system, is unaffected. The proposed change does not alter or prevent the ability of structures, systems, and components to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. Surveillance testing in the bypass condition will not cause any design or analysis acceptance criteria to be exceeded.

Under the proposed change, the channel being tested may be bypassed. The number of available channels with one channel in bypass for testing will remain the same as the number of channels available when testing in

trip. The number of channels to trip will be unchanged when testing in bypass while the number of channels to trip is reduced to one when testing in trip. Although there may be a slight increase in the possibility that the failure of a channel could prevent the actuation of a function (because testing in bypass could result in two-out-of-two logic while testing in trip would have resulted in one-out-of-two logic), testing in bypass will reduce the vulnerability to inadvertent actuation of a function while maintaining the required number of channels to trip. The impact of using bypass test capability upon nuclear safety has been previously evaluated by the NRC and determined to be acceptable in WCAP–10271–P–A and its supplements. Thus, testing in bypass when all channels are operable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Under the proposed change, the channel being tested may be bypassed when another channel is concurrently inoperable and in a tripped condition. As a result, one channel in bypass and another in trip leaves one-out-of-two operable channels to initiate the protective function (if the initial logic is two-out-of-four) or one-out-of-one operable channels to initiate the protective function (if the initial logic was two-out-of-three). Thus, testing in bypass with one channel inoperable does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Implementation of the bypass testing capability does not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. Plant response as modeled in the safety analyses is unaffected. Hence, the releases used as input to the dose calculations are unchanged from those previously assumed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Surveillance testing in bypass does not affect accident initiation sequences or response scenarios as modeled in the safety analyses. No new operating configuration is being imposed by the surveillance testing in bypass that would create a new failure scenario. The RTS and ESFAS will continue to have the same setpoints after the proposed change is implemented. In addition, no new failure modes are being created for any plant equipment. The bypass test instrumentation has been designed to applicable regulatory and industry standards. Fault conditions, failure detection, reliability and equipment qualification have been considered. The modifications do not result in any new or different accident scenarios.

The types of accidents defined in the UFSAR [Updated Final Safety Analysis Report] continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

Therefore, the proposed change does not create the possibility of a new or different

kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

No safety analyses were changed or modified as a result of the proposed TS change to reflect installed bypass test capability. The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. Margins associated with the current safety analyses acceptance criteria are unaffected. The current safety analyses remain bounding since their conclusions are not affected by performing surveillance testing in bypass. The safety systems credited in the safety analyses will continue to be available to perform their mitigation functions.

Implementation of testing in bypass results in an overall improvement in safety because the capability to test the channels in bypass will reduce the potential for an inadvertent reactor trip or safeguards actuation due to a failure or spurious transient in a redundant channel.

Therefore, the proposed change does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

*NRC Branch Chief:* James G. Danna.

*PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station (HCGS), Salem County, New Jersey*

*Date of amendment request:*

November 9, 2017. A publicly-available version is in ADAMS under Accession No. ML17317B320.

*Description of amendment request:*

This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the HCGS Technical Specifications (TSs). Specifically, the amendment would revise the safety limit minimum critical power ratio (SLMCPR) for two recirculation loop operation and single recirculation loop operation based on the HCGS Cycle 22 specific analysis.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or

consequences of an accident previously evaluated?

Response: No.

The required SLMCPRs for HCGS Cycle 22 are calculated using NRC-approved methodology. The SLMCPR values, contained in TS Section 2.1 ("Safety Limits"), ensure at least 99.9% of all fuel rods in the core do not experience transition boiling during normal operation and analyzed transients, preserving fuel cladding integrity. The proposed change to the SLMCPR values ensures this criterion continues to be met, and therefore does not increase the probability or consequences of an accident previously evaluated. In addition, no plant hardware or operational changes are required with this proposed change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The required SLMCPRs for HCGS Cycle 22 are calculated using NRC-approved methodology. The SLMCPR values, contained in TS Section 2.1, ensure at least 99.9% of all fuel rods in the core do not experience transition boiling during normal operation and analyzed transients. The proposed change to the SLMCPR values does not involve any plant hardware or operational changes and does not create any new precursors to an accident.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The required SLMCPRs for HCGS Cycle 22 are calculated using NRC-approved methodology. The SLMCPR values, contained in TS Section 2.1, ensure at least 99.9% of all fuel rods in the core do not experience transition boiling during normal operation and analyzed transients, preserving fuel cladding integrity. The revised SLMCPR values ensure this criterion continues to be met. In addition, the proposed change to the SLMCPR values does not adversely affect the design basis function or performance of a structure, system, or component as described in the HCGS UFSAR [Updated Final Safety Analysis Report].

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Jeffrie J. Keenan, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

*NRC Branch Chief:* James G. Danna.

### **Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation**

*Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York*

*Exelon Generation Company, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York*

*PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey*

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.<sup>1</sup> The request must include the following information:

<sup>1</sup> While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>2</sup> setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

<sup>2</sup> Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requester may

challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether

granting or denying access) is governed by 10 CFR 2.311.<sup>3</sup>

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

*It is so ordered.*

Dated at Rockville, Maryland, this 24th of January, 2018.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

#### ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0 .....	Publication of <b>Federal Register</b> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10 .....	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60 .....	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20 .....	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25 .....	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30 .....	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40 .....	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A .....	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3 .....	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28 .....	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53 .....	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60 .....	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60 .....	Decision on contention admission.

<sup>3</sup>Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as

applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2018-01706 Filed 2-5-18; 8:45 am]

BILLING CODE 7590-01-P

## OVERSEAS PRIVATE INVESTMENT CORPORATION

### Sunshine Notice—February 28, 2018 Public Hearing

**TIME AND DATE:** 2:00 p.m., Wednesday, February 28, 2018

**PLACE:** Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW, Washington, DC

**STATUS:** Hearing OPEN to the Public at 2:00 p.m.

**PURPOSE:** Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation

#### *Procedures:*

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Thursday, February 22, 2018. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Thursday, February 22, 2018. Such statement must be typewritten, double spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the March 8, 2018, Board meeting will be posted on OPIC's website.

#### **CONTACT PERSON FOR INFORMATION:**

Information on the hearing may be obtained from Catherine F. I. Andrade at (202) 336-8768, via facsimile at (202) 408-0297, or via email at [Catherine.Andrade@opic.gov](mailto:Catherine.Andrade@opic.gov).

Dated: February 2, 2018.

**Catherine F. I. Andrade,**  
*OPIC Corporate Secretary.*

[FR Doc. 2018-02416 Filed 2-2-18; 11:15 am]

BILLING CODE 3210-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82608; File No. SR-NYSEArca-2018-08]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend NYSE Arca Rule 1.1(l) To Establish How the Official Closing Price Would Be Determined for an Exchange-Listed Security That Is a Derivative Securities Product if the Exchange Does Not Conduct a Closing Auction or if a Closing Auction Trade Is Less Than a Round Lot

January 31, 2018.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that on January 19, 2018, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend NYSE Arca Rule 1.1(l) to establish how the Official Closing Price would be determined for an Exchange-listed security that is a Derivative Securities Product if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. The proposed change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

##### **1. Purpose**

The Exchange proposes to amend NYSE Arca Rule 1.1(l) to establish how the Official Closing Price would be determined for an Exchange-listed security that is a Derivative Securities Product <sup>4</sup> if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. The Exchange also proposes to modify the structure of current Rule 1.1(l)(1) by adding new rule text under subparagraphs (A), (B) and (C) and renumbering current subparagraphs (A) through (C) as subparagraphs (D) through (F).

Current Rule 1.1(l)(1) provides how the Exchange establishes the "Official Closing Price" for Auction-Eligible Securities <sup>5</sup> which is used for purposes of Rule 7-E. <sup>6</sup>

Rule 1.1(l)(1) provides that the Official Closing Price for Auction-Eligible Securities is the price established in a Closing Auction of one round lot or more on a trading day. If there is no Closing Auction or if a Closing Auction trade is less than a round lot on a trading day, the Official Closing Price is the most recent

<sup>4</sup> With respect to equities traded on the Exchange, the term "Derivative Securities Product" means a security that meets the definition of "derivative securities product" in Rule 19b-4(e) under the Securities Exchange Act of 1934. See NYSE Arca Rule 1.1(k). For purposes of Rule 19b-4(e), a "derivative securities product" means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument. 17 CFR 240.19b-4(e).

<sup>5</sup> For purposes of the Closing Auction, an "Auction-Eligible Security" is defined in Rule 7.35-E(a)(1) to mean all securities for which the Exchange is the primary listing market and UTP Securities designated by the Exchange.

<sup>6</sup> In Rule 7-E, the Exchange uses the Official Closing Price for three purposes: (1) To determine the Auction Reference Price for a security, as provided for in Rule 7.35-E(a)(8)(A); (2) to determine the Trading Collar for a security if there is no consolidated last-sale price on the same trading day, as provided for in Rule 7.31-E(a)(1)(B)(i); and (3) for securities listed on the Exchange only, for purposes of determining whether to trigger a Short Sale Price Test, as defined under Rule 7.16-E(f)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

consolidated last-sale eligible trade during Core Trading Hours<sup>7</sup> on that trading day. Rule 1.1(l)(1)(A)–(C) further provides that if there were no consolidated last-sale eligible trades during Core Trading Hours on that trading day, the Official Closing Price will be the prior trading day's Official Closing Price.<sup>8</sup> For a security that has transferred its listing to NYSE Arca and does not have any consolidated last-sale eligible trades on its first trading day, the Official Closing Price will be the prior day's closing price disseminated by the primary listing market that previously listed such security.<sup>9</sup> For a security that is a new listing and does not have any consolidated last-sale eligible trades on its first trading day, the Official Closing Price will be based on a derived last-sale associated with the price of such security before it begins trading on the Exchange.<sup>10</sup>

The Exchange proposes to amend how the Official Closing Price for an Exchange-listed security that is a Derivative Securities Product would be determined if the Exchange does not conduct a Closing Auction or if a Closing Auction trade is less than a round lot. The proposed rule change is intended to allow the Exchange to provide what would be a more indicative value of such securities. Specifically, if a security is thinly traded or generally illiquid, the Official Closing Price for such security will be based on a last-sale trade that may be hours, days, or even months old and therefore not necessarily indicative of the true and current value of the security.

In the case of a stale last-sale price, the Exchange believes that a value based on the midpoint of the NBBO leading into the close may be more indicative of the true and current value of the security. To take into consideration potentially aberrant quotes, the Exchange proposes to use a time-weighted average price ("TWAP") of the midpoint of the NBBO<sup>11</sup> over the last five minutes of trading before the end of Core Trading Hours. To further take into consideration the value of trades that may occur during the last five minutes of trading, the Exchange proposes that the Official Closing Price would be comprised of both the TWAP value and

any last-sale eligible trades during that period. Last-sale eligible trades that occur closer to the close of trading would be assigned more weight in the determination of the Official Closing Price.

To effect this change, the Exchange proposes to move the first sentence of current Rule 1.1(l)(1) to new subparagraph (A) to Rule 1.1(l)(1) without any changes.

Proposed new subparagraph (B) to Rule 1.1(l)(1) would provide that if the Official Closing Price for an Exchange-listed security that is a Derivative Securities Product cannot be determined under proposed new Rule 1.1(l)(1)(A), the Official Closing Price for such security would be derived by adding a percentage of the TWAP of the NBBO midpoint measured over the last 5 minutes before the end of Core Trading Hours and a percentage of the last consolidated last-sale eligible trade before the end of Core Trading Hours on that trading day and that the percentages assigned to each would depend on when the last consolidated last-sale eligible trade occurred.

As proposed, if the last consolidated last-sale eligible trade occurred:

- (i) Prior to 5 minutes before the end of Core Trading Hours, the TWAP would be given 100% weighting;
- (ii) between 5 minutes and 4 minutes before the end of Core Trading Hours, the TWAP will be given 40% weighting and the consolidated last-sale eligible trade would be given 60% weighting;
- (iii) between 4 minutes and 3 minutes before the end of Core Trading Hours, the TWAP will be given 30% weighting and the consolidated last-sale eligible trade would be given 70% weighting;
- (iv) between 3 minutes and 2 minutes before the end of Core Trading Hours, the TWAP will be given 20% weighting and the consolidated last-sale eligible trade would be given 80% weighting;
- (v) between 2 minutes and 1 minute before the end of Core Trading Hours, the TWAP will be given 10% weighting and the consolidated last-sale eligible trade would be given 90% weighting;
- (vi) during the last 1 minute before the end of Core Trading Hours, the TWAP will be given 0% weighting and the consolidated last-sale eligible trade would be given 100% weighting.

Proposed new subparagraph (C) to Rule 1.1(l)(1) further provides that if the Official Closing Price cannot be determined under proposed new subparagraphs (A) or (B) to Rule 1.1(l)(1), the most recent consolidated last-sale eligible trade during Core Trading Hours on that trading day would be the Official Closing Price. This proposed rule text is based on the

current second sentence of Rule 1.1(l)(1), but revised to specify that the Exchange would use the most recent consolidated last-sale eligible trade if it cannot determine an Official Closing Price under either subparagraphs (A) or (B) of Rule 1.1(l)(1).

The Exchange is not proposing any substantive changes to current Rule 1.1(l)(1)(A)–(C) other than to renumber current subparagraphs (A) through (C) as (D) through (F), or to any aspect of current Rule 1.1(l)(2)–(5).

Because of the technology changes associated with this proposed rule change, the Exchange will implement the proposed rule change for determining an Official Closing Price no later than 120 days after the operative date of this proposed rule change and will announce the implementation date via Trader Update.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a method of determining the Official Closing Price in an Exchange-listed security that is a Derivative Securities Product if there is no Closing Auction or if a Closing Auction trade is less than a round lot on a trading day. More specifically, the Exchange believes the proposed methodology for determining the Official Closing Price would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a more up-to-date indication of the value of such a security if there have not been any last-sale eligible trades leading in to the close of trading. The Exchange believes the proposed Official Closing Price calculation would also provide a closing price that more accurately reflects the

<sup>7</sup> The term "Core Trading Hours" is defined in Rule 1.1(j) to mean the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time.

<sup>8</sup> See NYSE Arca Rule 1.1(l)(1)(A).

<sup>9</sup> See NYSE Arca Rule 1.1(l)(1)(B).

<sup>10</sup> See NYSE Arca Rule 1.1(l)(1)(C).

<sup>11</sup> The term "NBBO" is defined in Rule 1.1(dd) to mean the national best bid or offer.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

most recent and reliable market information possible.

The Exchange further believes that the proposed TWAP calculation would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide for a more robust mechanism to determine the value of an affected security for purposes of determining an Official Closing Price. By using a time-weighted calculation based on the midpoint of the NBBO over the last five minutes of trading and then assigning a weight to that TWAP calculation as compared to any last-sale eligible trades leading into the close, the Exchange believes that the proposed calculation would result in the price of a security that is reflective of the true and current value of such security on that trading day. Additionally, by adding a TWAP calculation rather than just the last consolidated last-sale eligible price as of the end of regular trading hours, the Exchange would reduce the potential for an anomalous trade that may not reflect the true and current price of a security from being set as the Exchange's Official Closing Price for that security.

Finally, the Exchange believes that the proposed methodology for determining an Official Closing Price would be appropriate for Derivative Securities Products because if such securities are thinly traded, a last-sale price from earlier in a trading day or even from a prior trading day or days may no longer be reflective of the value of such product, which should be priced relative to the value of the components of such security. In such case, recent quoting may be more reflective of the value of the security. However, to take into consideration a stale quote or an aberrant trade that may occur leading into the close, the Exchange believes a time-weighted average price derived from the midpoint of the NBBO would provide a greater indication of the value of such securities.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues, but rather to provide for how the Exchange would determine an Official Closing Price for Exchange-listed securities that are Derivative Securities Products if there is no Closing Auction or if a Closing Auction trade is less than a round lot on a trading day.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-08 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEArca-2018-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2018-08 and should be submitted on or before February 27, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-02270 Filed 2-5-18; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-82607; File No. SR-BOX-2017-36]**

### **Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 7600(i) To Allow Split-Price Transactions on the Trading Floor**

January 31, 2018.

On November 30, 2017, BOX Options Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt proposed Rule 7600(i) to allow split-price transactions on the Trading Floor. The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.<sup>3</sup> The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 82315 (December 13, 2017), 82 FR 60256.

<sup>4</sup> 15 U.S.C. 78s(b)(2).



to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 2, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates March 19, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR-BOX-2017-36).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-02269 Filed 2-5-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, February 8, 2018.

**PLACE:** Closed Commission Hearing Room 10800.

**STATUS:** This meeting will be closed to the public.

#### **MATTERS TO BE CONSIDERED:**

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Peirce, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

#### **CONTACT PERSON FOR MORE INFORMATION:**

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: February 1, 2018.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2018-02392 Filed 2-2-18; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-82609; File No. SR-Phlx-2018-12]**

### **Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Execution Protections Rule**

January 31, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 24, 2018, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to relocate Execution Protections currently located at Phlx Rule 1080(p) to new Phlx Rule 1099 and entitle the rule "Order Protections." The Exchange proposes to amend certain words within the current rule text to conform the language within this Rule 1080(p).

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

###### **1. Purpose**

The Exchange proposes to relocate Execution Protections currently located at Phlx Rule 1080(p) to new Phlx Rule 1099 and entitle the rule "Order Protections." The Exchange also proposes to conform certain rule text within the current rule throughout new Rule 1099.

The Exchange proposes to utilize the term "System" throughout new Rule 1099 instead of the terms "Phlx XL" or "system."<sup>3</sup> The Exchange also proposes to remove the term "Phlx" and replace it with the word "Exchange." These non-substantive rule changes are meant to simply conform terms within the new Rule for consistency.

Locating these order protection rules within new Rule 1099 will make them easier to locate and also shorten the length of Rule 1080 for ease of reading that rule.

The Exchange also proposes to update cross-references to Rule 1080(p) to Rule 1099.<sup>4</sup>

###### **2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> System is defined at Phlx Rule 1000(45).

<sup>4</sup> The Exchange proposes to amend cross-references in Rule 1082 (Firm Quotations) and Rule 1098 (Complex Orders on the System).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).



trade and to protect investors and the public interest by consistently utilizing the term “System” throughout new Rule 1099 instead of the terms “Phlx XL” or “system.” The Exchange also proposes to remove the term “Phlx” and replace it with the word “Exchange.” The Exchange believes that this proposal is consistent with the Act because the Exchange is conforming terms within the new Rule for consistency and relocating these order protection rules within new Rule 1099 to make them easier to locate and also shorten the length of Rule 1080 for ease of reading.

The Exchange also proposes to make certain formatting changes within the Rule to conform the text throughout its Rulebook.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange’s proposal does not impose an undue burden on competition because the amendments conform the rule text to text throughout the Rulebook and the proposal relocates the order protection rules to a new Rule 1099 for ease of reference.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2018-12 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2018-12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

to make available publicly. All submissions should refer to File Number SR-Phlx-2018-12, and should be submitted on or before February 27, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-02271 Filed 2-5-18; 8:45 am]

**BILLING CODE 8011-01-P**

## **DEPARTMENT OF STATE**

**[Public Notice: 10304]**

### **Notice of Public Meeting**

The Department of State will conduct an open meeting at 10:00 a.m. on Thursday, March 1, 2018, at the offices of the Radio Technical Commission for Maritime Services (RTCM), 1611 N. Kent Street, Suite 605, Arlington, VA 22209. The primary purpose of the meeting is to prepare for the fifth session of the International Maritime Organization’s (IMO) Sub-Committee on Ship Systems and Equipment to be held at the IMO Headquarters, United Kingdom, March 12–16, 2018.

The agenda items to be considered include:

- Adoption of the agenda
- Decisions of other IMO bodies
- Safety objectives and functional requirements of the Guidelines on alternative design and arrangements for SOLAS chapters II-1 and III
- Develop new requirements for ventilation of survival crafts
- Uniform implementation of paragraph 6.1.1.3 of the LSA Code
- Consequential work related to the new Code for ships operating in polar waters
- Review SOLAS chapter II-2 and associated codes to minimize the incidence and consequences of fires on ro-ro spaces and special category spaces of new and existing ro-ro passenger ships
- Amendments to the FSS Code for CO2 pipelines in under-deck passageways
- Amendments to MSC.1/Circ.13151
- Requirements for onboard lifting appliances and anchor handling winches
- Revised SOLAS regulations II 1/13 and II-1/13-1 and other related regulations for new ships
- Unified interpretation of provisions of IMO safety, security, and environment-related Conventions
- Development of guidelines for cold ironing of ships and of amendments

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- to SOLAS chapters II-1 and II-2, if necessary
- Biennial status report and provisional agenda for SSE 6
- Election of Chair and Vice-Chair for 2019
- Any other business

Members of the public may attend this meeting up to the seating capacity of the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. In order to ensure reasonable accommodation for the full number of meeting participants, those who plan to attend should contact the meeting coordinator, LT Laura Fitzpatrick, by email at [Laura.M.Fitzpatrick@uscg.mil](mailto:Laura.M.Fitzpatrick@uscg.mil), by phone at (202) 372-1396, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593-7509 not later than February 22, 2018, 7 days prior to the meeting. Requests made after February 22, 2018 might not be able to be accommodated. RTCM Headquarters is located adjacent to the Rosslyn Metro station and is accessible by taxi and privately owned conveyance. In the case of inclement weather where the U.S. Government is closed or delayed, a public meeting may be conducted virtually by calling (202) 475-4000, Participant code: 887 809 72. The meeting coordinator will confirm whether the virtual public meeting will be utilized. Members of the public can find out whether the U.S. Government is delayed or closed by visiting [www.opm.gov/status/](http://www.opm.gov/status/).

Additional information regarding this and other IMO public meetings may be found at: [www.uscg.mil/imo](http://www.uscg.mil/imo).

Joel C. Coito,

*Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2018-02272 Filed 2-5-18; 8:45 am]

BILLING CODE 4710-09-P

## DEPARTMENT OF STATE

[Public Notice: 10300]

**E.O. 13224 Designation of Liwa al-Thawra, aka Liwa al-Thawrah, aka Liwa' al-Thawrah, aka Liwaa al-Thawra, aka Lewaa Al-Thawra, aka Revolution Brigade, aka The Revolution Brigade, aka Banner of the Revolution, as a Specially Designated Global Terrorist Entity**

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I

hereby determine that the entity known as Liwa al-Thawra, also known as Liwa al-Thawrah, also known as Liwa' al-Thawrah, also known as Liwaa al-Thawra, also known as Lewaa Al-Thawra, also known as Revolution Brigade, also known as The Revolution Brigade, also known as Banner of the Revolution, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 5, 2018.

**Rex W. Tillerson,**

*Secretary of State.*

[FR Doc. 2018-02290 Filed 2-5-18; 8:45 am]

BILLING CODE 4710-AD-P

## DEPARTMENT OF STATE

[Public Notice: 10302]

**E.O. 13224 Designation of Hasam, aka Hassm, aka Hasam Movement, aka Harakah Sawa'id Misr, aka Harakat Sawa'd Misr, aka Arms of Egypt Movement, aka Movement of Egypt's Arms, aka Movement of Egypt's Forearms, aka Hamms, aka Hassam, aka Hasam as a Specially Designated Global Terrorist Entity**

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Hasam, also known as Hassm, also known as Hasam Movement, also known as Harakah Sawa'id Misr, also known as Harakat Sawa'd Misr, also known as Arms of Egypt Movement, also known as Movement of Egypt's Arms, also known as Movement of Egypt's Forearms, also known as Hamms, also known as Hassam, also known as

Hasam, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 5, 2018.

**Rex W. Tillerson,**

*Secretary of State.*

[FR Doc. 2018-02292 Filed 2-5-18; 8:45 am]

BILLING CODE 4710-AD-P

## DEPARTMENT OF STATE

[Public Notice: 10303]

**E.O. 13224 Designation of Ismail Haniyeh, aka Ismail Abdel Salam Ahmed Haniyeh, aka Ismail Haniya, aka Ismail Haniyah, aka Ismail Haniyyah, aka Ismael Haniyah, aka Ismael Haniya, aka Ismayil Haniyeh, aka Ismail Hanieh as a Specially Designated Global Terrorist**

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Ismail Haniyeh, also known as Ismail Abdel Salam Ahmed Haniyeh, also known as Ismail Haniya, also known as Ismail Haniyah, also known as Ismail Haniyyah, also known as Ismael Haniyah, also known as Ismael Haniya, also known as Ismayil Haniyeh, also known as Ismail Hanieh, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United

States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 7, 2018.

**Rex W. Tillerson,**  
*Secretary of State.*

[FR Doc. 2018-02291 Filed 2-5-18; 8:45 am]

**BILLING CODE 4710-AD-P**

## DEPARTMENT OF STATE

[Public Notice: 10301]

### **E.O. 13224 Designation of Harakat al-Sabireen, aka Al-Sabirin, aka Al-Sabireen, aka a-Sabrin organization, aka Al-Sabireen Movement for Supporting Palestine, aka Al-Sabireen for the Victory of Palestine, aka The Sabireen Movement, aka HESN, aka Movement of Those Who Endure With Patience, aka Movement of the Patient Ones as a Specially Designated Global Terrorist**

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Harakat al-Sabireen, also known as Al-Sabirin, also known as Al-Sabireen, also known as a-Sabrin organization, also known as Al-Sabireen Movement for Supporting Palestine, also known as Al-Sabireen for the Victory of Palestine, also known as The Sabireen Movement, also known as HESN, also known as Movement of Those Who Endure with Patience, also known as Movement of the Patient Ones, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to

be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 19, 2017.

**Rex W. Tillerson,**  
*Secretary of State.*

[FR Doc. 2018-02295 Filed 2-5-18; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF TRANSPORTATION

### **Federal Aviation Administration**

#### **Notice of Release From Federal Surplus Property and Grant Assurance Obligations at Charles M. Shulz—Sonoma County Airport (STS), California**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of Request to Release Airport Land.

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a land use change of approximately 14.5 acres of airport property at the Charles M. Shulz—Sonoma County Airport (STS), Santa Rosa, California from the conditions for aviation use contained in the Surplus Property Deed and Grant Assurances because the parcel of land is needed for other than airport operational purposes. The parcel is located outside the airport's Active Operations Area (AOA) and separated from the AOA by the airport's perimeter fence. The 14.5 acres of airport land is presently being utilized by Sonoma County, the owner of STS, as a mitigation preserve and is identified as a suitable location for the United States Fish and Wildlife Service (USFWS) required 2.0 acres mitigation for the STS Runway Safety Area (RSA) Improvement Project. The County proposed non-aeronautical use will be compatible with the airport and will not interfere with the airport or its operation.

**DATES:** Comments must be received on or before March 8, 2018.

#### **FOR FURTHER INFORMATION CONTACT:**

Comments on the request may be mailed or delivered to the FAA at the following address: Mr. Fernando Yanez, Lead Program Manager, Federal Aviation Administration, San Francisco Airports District Office, **Federal Register** Comment, 1000 Marina Boulevard,

Suite 220, Brisbane, CA 94005. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Jon G. Stout, Airport Manager, Charles M. Schulz—Sonoma County Airport, 2290 Airport Boulevard, Santa Rosa, CA 95403.

**SUPPLEMENTARY INFORMATION:** In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106-181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The County of Sonoma, California requested a release from Federal surplus property and grant assurance obligations for approximately 14.5 acres of airport land to allow for a land-use change for non-aeronautical purposes to place a conservation easement approximately 1,600 feet east of Runway 14 end, south of the AOA, and separated by the airport perimeter fence. The parcel contains a wooded riparian/creek corridor and approximately 4.5 acres of seasonal wetlands that were established in 1999 as off-site mitigation for other projects in the vicinity. The airport parcel was acquired in 1994 with Airport Improvement Program funds to protect the operation of an adjacent FAA radio transmitter receiver, to prevent incompatible land use development that may interfere with the antenna field, and to provide noise buffering. The airport pursuant to the Surplus Property Act of 1944 was deeded to the County of Sonoma on June 20, 1949. The establishment of a conservation easement over the parcel is required to do the mitigation work that includes the 2.0 acres mitigation to enhance and preserve an endangered plant species, Burke's goldfields, as part of the compensation and required mitigation for the STS RSA Improvement Project. The land use change will enable the County to meet the requirements of the Biological Opinion issued by the United States Fish and Wildlife Service in connection with the RSA Project. The FAA issued a Record of Decision, a Finding of No Significant Impact on July 19, 2013 for the RSA Project that required implementation of mitigation measures. The easement will contain provisions to continue the purpose of the 1994 County's acquisition of the parcel to protect the nearby antenna field. The parcel will also continue to act as a noise buffer from the airport

since the parcel will not serve a commercial or aeronautical purpose. The use of the property will not interfere with the airport or its operations, thereby serving the interests of civil aviation.

Issued in Brisbane, California, on January 29, 2018.

**Anthony M. Butters,**

*Acting Manager, San Francisco Airports District Office, Western-Pacific Region.*

[FR Doc. 2018-02334 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Special Flight Rules in the Vicinity of Grand Canyon National Park**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA will use the information it collects and reviews to monitor compliance with the regulations regarding air tours in the Grand Canyon National Park.

**DATES:** Written comments should be submitted by April 9, 2018.

**ADDRESSES:** Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hall by email at: [Barbara.L.Hall@faa.gov](mailto:Barbara.L.Hall@faa.gov); phone: 940-594-5913.

#### **SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120-0653.

*Title:* Commercial Air Tour

Limitations in the Grand Canyon National Park Special Flight Rules Area.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Renewal of an information collection.

*Background:* Each operator seeking to obtain or in possession of an air carrier operating certificate must comply with the requirements of 14 CFR part 135 or part 121, as appropriate. Each of these operators conducting air tours in the Grand Canyon National Park must additionally comply with the collection requirements for that airspace. The FAA will use the information it collects and reviews to monitor compliance with the regulations and, if necessary, take enforcement action against violators of the regulations.

*Respondents:* 12.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per*

*Response:* 45 minutes.

*Estimated Total Annual Burden:* 36 hours.

Issued in Fort Worth, TX, on January 31, 2018.

**Barbara L. Hall,**

*FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.*

[FR Doc. 2018-02309 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: General Aviation and Air Taxi Activity and Avionics Survey**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This information will be used by FAA for safety assessment, planning, forecasting, cost/benefit analysis, and to target areas for research.

**DATES:** Written comments should be submitted by April 9, 2018.

**ADDRESSES:** Send comments to the FAA at the following address: Barbara Hall,

Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

#### **FOR FURTHER INFORMATION CONTACT:**

Barbara Hall by email at:

[Barbara.L.Hall@faa.gov](mailto:Barbara.L.Hall@faa.gov); phone: 940-594-5913.

#### **SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120-0060.

*Title:* General Aviation and Air Taxi Activity and Avionics Survey.

*Form Numbers:* 1800-54.

*Type of Review:* Extension Without Change.

*Background:* Respondents to this survey are owners of general aviation aircraft. This information is used by FAA for safety assessment, planning, forecasting, cost/benefit analysis, and to target areas for research.

*Respondents:* 39,000.

*Frequency:* Information is collected annually.

*Estimated Average Burden per*

*Response:* 20 minutes.

*Estimated Total Annual Burden:* 13,000 hours.

Issued in Fort Worth, TX, on January 31, 2018.

**Barbara L. Hall,**

*FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.*

[FR Doc. 2018-02311 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Reporting of Information Using Special Airworthiness Information Bulletin**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA

invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA issues Special Airworthiness Information Bulletins (SAIBs) to alert, educate, and make recommendations to the aviation community and individual aircraft owners/operators on ways to improve products. They may include requests for reporting of results from requested actions/inspections.

**DATES:** Written comments should be submitted by April 9, 2018.

**ADDRESSES:** Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:**

Barbara Hall by email at: [Barbara.L.Hall@faa.gov](mailto:Barbara.L.Hall@faa.gov); phone: 940-594-5913.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120-0731.

*Title:* Reporting of Information Using Special Airworthiness Information Bulletin.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Renewal of an information collection.

*Background:* A special airworthiness information bulletin (SAIB) is an important tool that helps the FAA to gather information to determine whether an airworthiness directive is necessary. An SAIB alerts, educates, and make recommendations to the aviation community and individual aircraft owners and operators about ways to improve the safety of a product. It contains non-regulatory information and guidance that is advisory and may include recommended actions or inspections with a request for voluntary reporting of inspection results.

*Respondents:* Approximately 1,120 owners/operators.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 5 minutes.

*Estimated Total Annual Burden:* 467 hours.

Issued in Fort Worth, TX, on January 31, 2018.

**Barbara L. Hall,**

*FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.*

[FR Doc. 2018-02308 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Advanced Qualification Program (AQP)**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The Advanced Qualification Program uses data driven quality control processes for validating and maintaining the effectiveness of air carrier training program curriculum content.

**DATES:** Written comments should be submitted by April 9, 2018.

**ADDRESSES:** Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:**

Barbara Hall by email at: [Barbara.L.Hall@faa.gov](mailto:Barbara.L.Hall@faa.gov); phone: 940-594-5913.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120-0701.

*Title:* Advanced Qualification Program (AQP).

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* Renewal of an information collection.

*Background:* Under Special Federal Aviation Regulation No. 58, Advanced Qualification Program (AQP), the FAA provides certificated air carriers, as well as training centers they employ, with a regulatory alternative for training, checking, qualifying, and certifying aircrew personnel subject to the requirements of 14 CFR parts 121 and 135. Data collection and analysis processes ensure that the certificate holder provides performance information on its crewmembers, flight instructors, and evaluators that will enable them and the FAA to determine whether the form and content of training and evaluation activities are satisfactorily accomplishing the overall objectives of the curriculum.

*Respondents:* 25 respondents with approved Advanced Qualification Programs.

*Frequency:* Data are collected monthly.

*Estimated Average Burden per Response:* 2 hours.

*Estimated Total Annual Burden:* 600 hours.

Issued in Washington, DC.

**Barbara L. Hall,**

*FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.*

[FR Doc. 2018-02310 Filed 2-5-18; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### **Alaska National Interest Lands Conservation Act of 1980 (ANILCA) Title XI Notice of Time Extension for Environmental Impact Statement**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; Final Environmental Impact Statement Time Extension for Good Cause.

**SUMMARY:** The FHWA has determined it necessary to extend the date by which a final environmental impact statement will be published for the Sterling Highway Milepost 45-60 Project in Alaska, and thereby to extend the timing of decisions of involved Federal agencies regarding the project. Timelines and the process of extending timelines are established in the Alaska National Interest Lands Conservation

Act of 1980 (ANILCA) for certain projects. The FHWA is extending the date to accommodate a potential shift in the preferred alternative and to determine with the Department of the Interior how a 2017 commitment to undertake a land exchange in the project area would affect the decision making process. The delay is agreeable to the applicant (Alaska Department of Transportation and Public Facilities) and other involved Federal agencies.

**DATES:** The publication of a final environmental impact statement for the Sterling Highway MP 45–60 Project is extended to March 13, 2018.

**ADDRESSES:** Applicant's project website: <http://sterlinghighway.net>.

**FOR FURTHER INFORMATION CONTACT:** John Lohrey, FHWA Alaska Division Transportation Planner, 907–586–7428, [john.lohrey@dot.gov](mailto:john.lohrey@dot.gov).

**SUPPLEMENTARY INFORMATION:** The Alaska Department of Transportation and Public Facilities (DOT&PF) proposes to upgrade and partially realign the Sterling Highway (AK–1) over about 14 miles in the vicinity of Cooper Landing, in the Kenai Peninsula Borough, Alaska. The Sterling Highway Milepost 45–60 Project, in part, would use Federal funding administered by the FHWA. The FHWA and DOT&PF issued a draft supplemental environmental impact statement (EIS) for the project in March 2015. The EIS was a supplemental EIS because FHWA had issued a draft EIS in 1994 for a 23-mile stretch of the Sterling Highway and had issued authorization following the 1994 draft EIS to split the project into two parts, each with independent utility. A decision in 1995 authorized design and construction of the Milepost 37–45 portion (completed in 2001) and development of a supplemental EIS for the Milepost 45–60 portion.

Some alternatives evaluated in the current EIS would cross lands classified as conservation system units (CSUs) by the ANILCA. Title XI of ANILCA requires special procedures for completion of an EIS under the National Environmental Policy Act if a transportation project will cross a CSU. The ANILCA Section 1104(e) [16 U.S.C. 3164(e)] describes procedural requirements, including a requirement that the project's final EIS shall be completed within 1 year of submittal of a form applying to cross a CSU. The procedural requirements allow the lead Federal agency to extend the time period for good cause if a notice is published in the **Federal Register** to explain the reasons for the extension.

For ANILCA requirements, the involved Federal agencies are FHWA

(Department of Transportation); Forest Service (Department of Agriculture); U.S. Fish and Wildlife Service (Department of the Interior); and Corps of Engineers (Department of the Army). These agencies have long been cooperating agencies and have been working in good faith to produce the EIS.

Under ANILCA Title XI, FHWA and the other involved Federal agencies consider the Kenai National Wildlife Refuge and the Resurrection Pass National Recreation Trail on Chugach National Forest to be CSUs. Two alternatives would use land from these CSUs, and two alternatives would not use land from any CSUs. DOT&PF filed the required Federal form, Standard Form 299, as an application for crossing the CSUs. The filing date was March 13, 2015. At that time, neither DOT&PF nor FHWA had identified a preferred alternative, so the application was made in general, because two alternatives would involve CSUs. In December 2015, DOT&PF and FHWA agreed that the G South Alternative was the preferred alternative and released this information to the public. The FHWA issued a letter dated December 9, 2016, to cooperating agencies stating that the preferred alternative would not cross any CSU and that no decision under ANILCA Title XI would be required. Consideration of the timelines under ANILCA Title XI was put aside.

However, based on public and agency comment following publication of the Draft Supplemental EIS and the announcement of the preferred alternative, and based on input from cooperating agencies during preparation of the Final EIS, FHWA and DOT&PF have been reconsidering the preferred alternative. New information also affects identification of the preferred alternative. Therefore, the involved Federal agencies and DOT&PF as the applicant are in agreement that it is in the best interest of good decision-making for this project to extend the timeline given in ANILCA.

Specifically, FHWA is extending the timeline for publishing the Final EIS to March 13, 2018. The FHWA and the other involved Federal agencies expect to publish the Final EIS within that time and to issue their individual decisions regarding permits and authorizations in accordance with ANILCA following the Final EIS publication. The actual issuance of a permit or right-of-way, or actual transfer of funds, is expected to occur as promptly as possible following these decisions, per ANILCA sections 1106(a)(1)(A) and 1106(c)(6).

**Authority:** 16 U.S.C. 3164(e).

Issued on: January 29, 2018.

**Sandra A. Garcia-Aline,**  
Division Administrator.

[FR Doc. 2018–02265 Filed 2–5–18; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Comment Request; Registration of Mortgage Loan Originators

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, “Registration of Mortgage Loan Originators.”

**DATES:** You should submit written comments by: April 9, 2018.

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0243, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov). You may personally inspect and photocopy comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit

to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

**FOR FURTHER INFORMATION CONTACT:**

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed renewal of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed renewal of information set forth in this document.

*Title:* Registration of Mortgage Loan Originators.

*OMB Number:* 1557-0243.

*Description:* The Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act)<sup>1</sup> requires an employee of a bank, savings association, or credit union and their subsidiaries regulated by a federal banking agency or an employee of an institution regulated by the Farm Credit Administration (FCA) (collectively, institutions) who engages in the business of a residential mortgage loan originator (MLO) to register with the Nationwide Mortgage Licensing System and Registry (Registry) and obtain a unique identifier. Institutions must require their employees who act as residential MLOs to comply with the Act's requirements to register and obtain a unique identifier and also adopt and follow written

policies and procedures to assure compliance with these requirements.

Among other things, the Registry is intended to aggregate and improve the flow of information to and between regulators; provide increased accountability and tracking of mortgage loan originators; enhance consumer protections; reduce fraud in the residential mortgage loan origination process; and provide consumers with easily accessible information at no charge regarding the employment history of, and the publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

Along with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Farm Credit Administration, the OCC issued a final rule implementing the SAFE Act.<sup>2</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111-203, later transferred this rule to the Consumer Financial Protection Bureau (CFPB) and the CFPB republished this rule as 12 CFR part 1007.<sup>3</sup> However, the OCC retains enforcement authority for this rule for national banks, federal savings associations and federal branches and agencies of foreign banks with total assets of \$10 billion or less.<sup>4</sup>

#### MLO Reporting Requirements

Except in situations where the de minimis exception applies, 12 CFR 1007.103 requires an employee of an institution who is engaged in the business of a MLO to register with the Registry, maintain and update such registration, and obtain a unique identifier. This section also requires an institution to require its MLO employees to comply with these requirements. Section 1007.103(d) sets forth the categories of information that an institution must require its employees to submit to the Registry, or to submit on the employee's behalf. This section also requires the employee to submit to the Registry an attestation as to the correctness of the information submitted and an authorization for the Registry to obtain further information.

#### MLO Disclosure Requirement

Section 1007.105(b) requires the MLO to provide the unique identifier to a consumer upon request, before acting as a mortgage loan originator, and through the originator's initial written

communication with a consumer, if any, whether on paper or electronically.

#### Financial Institution Reporting Requirements

Section 1007.103(e) specifies the institution and employee information that an institution must submit to the Registry in connection with the registration of one or more MLOs and annually thereafter. The institution also must update this information within 30 days of it becoming inaccurate. Employees of the institution who submit information to the Registry on behalf of the institution also must verify their identity and attest to the accuracy of the information submitted.

#### Financial Institution Disclosure Requirements

Section 1007.105(a) requires the institution to make the unique identifier of MLO employees available to consumers in a manner and method practicable to the institution.

#### Financial Institution Recordkeeping Requirements

Section 1007.104 requires that an institution that employs MLOs to adopt and follow written policies and procedures, at a minimum addressing certain specified areas, but otherwise appropriate to the nature, size and complexity of their mortgage lending activities.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals; Businesses or other for-profit.

*Estimated Number of Respondents:* 85,353.

*Estimated Total Annual Burden:* 51,384 hours.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

<sup>1</sup> The S.A.F.E. Act was enacted as part of the Housing and Economic Recovery Act of 2008, Pub. L. 110-289, Division A, Title V, sections 1501-1517, 122 Stat. 2654, 2810-2824 (July 30, 2008), codified at 12 U.S.C. 5101-5116.

<sup>2</sup> 75 FR 44656 (July 28, 2010), as corrected in 75 FR 51623 (Aug. 23, 2010).

<sup>3</sup> 76 FR 78487 (Dec. 19, 2011).

<sup>4</sup> See section 1025 of the Dodd-Frank Act, codified at 12 U.S.C. 5515.



Dated: January 31, 2018.

**Karen Solomon,**

*Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.*

[FR Doc. 2018-02305 Filed 2-5-18; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Information Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, 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. The IRS is soliciting comments concerning the Notice of Income from Donated Intellectual Property.

**DATES:** Written comments should be received on or before April 9, 2018 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or (202) 317-6009 or, through the internet, at [LanitaVanDyke@irs.gov](mailto:LanitaVanDyke@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Notice of Income Donated Intellectual Property.

*OMB Number:* 1545-1962.

*Form Number:* Form 8899.

*Abstract:* Form 8899 is filed by charitable org. receiving donations of intellectual property if the donor provides timely notice. The initial deduction is limited to the donor's basis; additional deductions are allowed to the extent of income from the

property, reducing excessive deductions.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit, and not-for-profit institutions.

*Estimated Number of Respondents:* 1,000.

*Estimated Time per Respondent:* 5 hrs. 26 min.

*Estimated Total Annual Burden Hours:* 5,430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Approved: January 23, 2018.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2018-02318 Filed 2-5-18; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0682]

### Agency Information Collection Activity: Advertising, Sales, and Enrollment Materials, and Candidate Handbook

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before April 9, 2018.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to "OMB Control No. 2900-0682" in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Harvey-Pryor at (202) 461-5870.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on:

(1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be



collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

**Authority:** 38 CFR 21.4252(h).

**Title:** Advertising, Sales, and Enrollment Materials, and Candidate Handbook.

**OMB Control Number:** 2900–0682.

**Type of Review:** Extension of a currently approved collection.

**Abstract:** This information is being collected because statute prohibits approval of the enrollment of a Veteran in a course if the educational institution uses advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading either by actual statement, omission, or intimation. The advertising, sales and enrollment materials are reviewed to determine if the institution is in compliance with guidelines for approval.

**Affected Public:** Institutions of Higher Learning and Entities.

**Estimated Annual Burden:** 3,062 hrs.  
**Estimated Average Burden per Respondent:** 15 min.  
**Frequency of Response:** Annually.  
**Estimated Number of Respondents:** 12,248.

By direction of the Secretary.

**Cynthia Harvey-Pryor,**  
*Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.*

[FR Doc. 2018–02281 Filed 2–5–18; 8:45 am]

**BILLING CODE 8320–01–P**

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