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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–17–0006]

RIN 0563–AC60

Common Crop Insurance Regulations; Nursery Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains necessary amendments to apply a technical correction to the final rule with request for comments for the Nursery Crop Insurance Provisions which published in the **Federal Register** on January 31, 2018.

DATES: *Effective Date:* March 23, 2018.

FOR FURTHER INFORMATION CONTACT: Francie Tolle, Director, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

This technical correction is being published to correct the definitions of ''over-report factor'' and ''under-report factor,'' published January 31, 2018 (83 FR 4564–4574). In the definition of ''over-report factor,'' the subparagraphs are intended to reflect step-by-step instructions for calculating the over-report factor, as explained in the lead-in paragraph; however, the lead-in paragraph of the definition and the subparagraphs are in conflict. As published, the phrase ''minus 1.100'' was misplaced in paragraph (2) of the definition and would result in an incorrect result. Proper placement of this phrase is in the paragraph succeeding paragraph (3). FCIC is redesignating paragraph (4) as paragraph (5) and adding a new paragraph (4) to incorporate this phrase.

Additionally, in the definition of ''over-report factor,'' the phrase ''reported on the PIVR, including any Peak Inventory Value Report during the coverage term of a Peak Inventory Endorsement, if applicable,'' which follows the term ''basic unit value'' is removed. The definition of ''basic unit value,'' as published in the Final Rule, on January 31, 2018, states ''the full inventory value of all insurable plants in a basic unit declared on your original or revised PIVR and a Peak Inventory Value Report, if applicable.'' The aforementioned phrase in the definition of ''over-report factor'' repeats the same information that is contained in the definition of ''basic unit value,'' and is not needed in the definition of ''over-report factor.''

Similarly, in the definition of ''under-report factor,'' the phrase ''including a Peak Inventory Value Report during the coverage term of a Peak Inventory Endorsement, if applicable,'' which follows the term ''basic unit value'' is removed. The phrase repeats the same information that is contained in the definition of ''basic unit value,'' and is not needed.

List of Subjects in 7 CFR Part 457

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Accordingly, part 457 is corrected by making the following amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 2. Amend § 457.162, in the Nursery crop insurance provisions, in section 1, by revising the definitions of ''Over-report factor'' and ''Under-report factor'' to read as follows:

§ 457.162 Nursery crop insurance provisions.

* * * * *

1. Definitions

* * * * *

Over-report factor. The factor that adjusts your indemnity for over-reporting of inventory values. This factor is used to determine indemnities when the basic unit value minus the total of all previous losses is more than 110 percent of FMVA for the same basic unit plus the insured value of plants listed on the verifiable sales records. The over-report factor is calculated by:

(1) The basic unit value minus the total of all previous losses;

(2) FMVA plus the insured value of plants listed on the verifiable sales records;

(3) Dividing the result of paragraph (1) of this definition by the result of paragraph (2) of this definition; and

(4) Subtracting 1.100 from the result of paragraph (3) of this definition.

(5) If the result of paragraph (4) of this definition is greater than 0.000, then the result of paragraph (4) is the over-report factor that is applied.

* * * * *

Under-report factor. The factor that adjusts your indemnity for under-reporting of inventory values. The factor is always used in determining indemnities. For each basic unit, the under-report factor is the lesser of:

(1) 1.000; or

(2) The basic unit value minus the total of all previous losses; and dividing that result by FMVA.

* * * * *

Signed in Washington, DC, on March 20, 2018.

Heather Manzano,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2018–06000 Filed 3–22–18; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1940

RIN 0575–AD11

Truth in Lending—Real Estate Settlement Procedures

AGENCY: Rural Housing Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Housing Service (RHS or Agency) will obsolete (and reserve) the Truth in Lending—Real Estate Settlement Procedures regulation to ensure compliance with the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) Integrated Mortgage Disclosures rule, commonly referred to as the TRID rule. This direct final rule will eliminate the functionally obsolete regulation in order to ensure compliance with the TRID rule, as the standard to follow.

DATES:

Effective Date: This rule is effective June 21, 2018.

Comments: Comments on the direct final rule must be received on or before May 22, 2018.

ADDRESSES: You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW, Washington, DC 20250–0742.

All written comments will be available for public inspection during regular work hours at the 1400 Independence Avenue SW, address listed above.

FOR FURTHER INFORMATION CONTACT: Shannon Chase, Finance and Loan Analyst, Single Family Housing Direct Loan Origination Branch, USDA Rural Development, 1400 Independence Ave. SW, Washington, DC 20250–0783, Telephone: (515) 305–0399. Email: *shannon.chase@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority

Section 510(k) of Title V of the Housing Act of 1949 (42 U.S.C. 1480(k)), as amended, authorizes the Secretary of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866

The Office of Management and Budget (OMB) has designated this rule as not significant under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This direct final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule, while affecting small entities, will not have an adverse economic impact on small entities. This rule does not impose any significant new requirements on program recipients nor does it adversely impact proposed real estate transactions involving program recipients as the buyers.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the direct final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, this direct final rule is not subject to the requirements of Executive Order 13175.

Programs Affected

The following programs, which are listed in the Catalog of Federal Domestic Assistance, are affected by this direct final rule: Number 10.410, Very Low to Moderate Income Housing Loans (specifically section 502 direct loans), and Number 10.417, Very Low-Income Housing Repair Loans and Grants (specifically section 504 loans).

Paperwork Reduction Act

This direct final rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1995.

E-Government Act Compliance

RHS is committed to complying with the E-Government Act, 44 U.S.C. 3601 *et seq.,* 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.

Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion , sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.govcomplaint_filing_cust.html/* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202)690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

I. Background

7 CFR part 1940, subpart I, provides instruction for compliance with TILA as implemented by Regulation Z of the Federal Reserve System, and with RESPA as implemented by Regulation X of the Department of Housing and Urban Development.

In 2010, Congress signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Dodd-Frank Act directed the Consumer Financial Protection Bureau (CFPB) to integrate the mortgage loan disclosures under TILA and RESPA Sections 4 and 5. The CFPB's TRID rule requires easier-to-use mortgage disclosure forms that clearly lay out the terms of a mortgage for a homebuyer; the rule consolidated the four disclosures required under TILA and RESPA into two forms: A Loan Estimate and a Closing Disclosure.

With the TRID rule's effective date of October 3, 2015 (80 FR 43911), which modified 12 CFR parts 1024 and 1026, 7 CFR part 1940, subpart I, has become functionally obsolete since it refers to outdated processes, forms, and governing bodies. Through this direct final action, this functionally obsolete regulation will be eliminated to avoid confusion and possible noncompliance on the part of Agency staff; and the RHS programs' guidance will cite the TRID rule as the standard to follow.

The TRID rule contains comprehensive instructions on its subject matter. By citing the CFPB's requirements regarding mortgage disclosures in its guidance, it is the Agency's objective to ensure that any future changes are immediately and accurately incorporated by reference.

List of Subjects in 7 CFR Part 1940

Agriculture, Environmental protection, Flood plains, Grant programs—agriculture, Grant programs—housing and community development, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate-income housing, Reporting and recordkeeping requirements, Rural areas, Truth in lending.

For the reasons stated in the preamble, chapter XVIII, title 7 of the Code of Federal Regulations, is amended as follows:

PART 1940—GENERAL

■ 1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart I—[Remove and Reserved]

■ 2. Remove and reserve subpart I, consisting of §§ 1940.401 through 1940.406.

Dated: March 1, 2018.

Anne C. Hazlett,

Assistant to the Secretary, Rural Development.

Dated: March 8, 2018.

Bill Northey,

Under Secretary, Farm Production and Conservation.

[FR Doc. 2018–05999 Filed 3–22–18; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0495; Product Identifier 2017–NM–017–AD; Amendment 39–19222; AD 2018–06–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by development of a modification to prevent uncommanded rudder movement during flight. This AD requires modifying the wiring harness of the yaw damper control system. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 27, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 27, 2018.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet: *http://www.bombardier.com.*

You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0495.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0495; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on May 31, 2017 (82 FR 24897) (''the NPRM''). The NPRM was prompted by development of a modification to prevent uncommanded rudder movement during flight. The NPRM proposed to require modifying the wiring harness of the yaw damper control system. We are issuing this AD to prevent uncommanded rudder movement and consequent loss of the ability to control the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2017–06, effective February 14, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> [Canadian] AD CF–2013–13 was issued on 28 May 2013 [related to FAA AD 2013–14–11, Amendment 39–17516 (78 FR 44871, July 25, 2013) (''AD 2013–14–11'')] to mandate the introduction of an emergency procedure to the Aeroplane Flight Manual to address the uncommanded rudder movement.
>
> Since the original issue of [Canadian] AD CF–2013–13, Bombardier Aerospace has developed a wiring modification for the yaw damper control system to prevent uncommanded movement of the rudder [and consequent loss of the ability to control the airplane].
>
> This [Canadian] AD mandates the wiring modification for the yaw damper control system * * *.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–20**–****.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA), agreed with the intent of the NPRM.

Request To Clarify Credit for Certain Service Information

SkyWest Airlines and Ahmad Lababidi asked that we revise paragraph (h) of the proposed AD to clarify the credit language for accomplishing the engineering orders in conjunction with the referenced service information. Ahmad Lababidi stated that Service Non-Incorporated Engineering Order (SNIEO) K601R50211 S02, dated October 31, 2014, was issued for certain airplane configurations where the wire connector was changed from pin type to socket type. The commenters added that SNIEOs K601R50211 S03, dated April 21, 2015, and S04, dated April 24, 2015, were issued to clarify certain splicing, capping, and stowing locations, and to reduce the work hours for accomplishing the actions specified in the service bulletin. The commenters added that it is not necessary to do the engineering orders in conjunction with the referenced service information. SkyWest reported accomplishing the modification on some airplanes using only the applicable service bulletin without any reference to the SNIEOs specified in paragraph (h) of the proposed AD.

We agree with the commenters' requests for the reasons provided. We have revised paragraphs (h)(1)(i) and (h)(1)(ii) of this AD to remove reference to the SNIEOs, which are not required to be used in conjunction with the referenced service information.

Request To Revise Parts Installation Limitations Paragraph

Air Wisconsin asked that we revise paragraph (i) of the proposed AD (Parts Installation Limitations) to exclude parts on which the actions in the referenced service information have been done.

We acknowledge the commenter's request. However, paragraph (i) of this AD already prohibits installation of a yaw damper actuator . . . ''unless it has been modified in accordance with the applicable service information specified in table 1 to paragraph (g) of this AD.'' Since existing language meets the intent of the commenter's request, we have not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 601R–22–017, Revision C, dated May 11, 2016; and Service Bulletin 670BA–22–007, Revision A, dated February 16, 2016. This service information describes procedures for modifying the wiring harness of the yaw damper control system. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,006 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
Wiring modification	5 work-hours × $85 per hour = $425	Up to $39	Up to $464 ..	Up to $466,784.

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

Authority for This Rulemaking

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

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

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):

2018–06–02 Bombardier, Inc.: Amendment 39–19222; Docket No. FAA–2017–0495; Product Identifier 2017–NM–017–AD.

(a) Effective Date

This AD is effective April 27, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Reason

This AD was prompted by development of a modification to prevent uncommanded rudder movement during flight. We are issuing this AD to prevent uncommanded rudder movement and consequent loss of the ability to control the airplane.

(f) Compliance

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

(g) Modification

Within 6,600 flight hours or 36 months after the effective date of this AD, whichever occurs first: Modify the wiring harness of the yaw damper control system, in accordance with the applicable service information specified in table 1 to paragraph (g) of this AD.

Table 1 to paragraph (g) of this AD

Airplane Model	Airplane Serial Numbers	Applicable Service Bulletin
CL-600-2B19	7002 through 8999 inclusive	Bombardier Service Bulletin 601R-22-017, Revision C, dated May 11, 2016
CL-600-2C10	10002 through 10344 inclusive	Bombardier Service Bulletin 670BA-22-007, Revision A, dated February 16, 2016
CL-600-2D15 and CL-600-2D24	15001 through 15400 inclusive	

(h) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD for Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, if those actions were performed before the effective date of this AD using the service information specified in paragraph (h)(1)(i), (h)(1)(ii), or (h)(1)(iii) of this AD.

(i) Bombardier Service Bulletin 601R–22–017, dated September 24, 2014.

(ii) Bombardier Service Bulletin 601R–22–017, Revision A, dated February 26, 2015.

(iii) Bombardier Service Bulletin 601R–22–017, Revision B, dated July 16, 2015.

(2) This paragraph provides credit for actions required by paragraph (g) of this AD for Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–22–007, dated October 15, 2014.

(i) Parts Installation Limitations

As of 24 months after the effective date of this AD, no person may install, on any airplane, a yaw damper actuator having part number 622–9968–001, unless it has been modified in accordance with the applicable service information specified in table 1 to paragraph (g) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2017–06, effective February 14, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0495.

(2) For more information about this AD, contact Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, New York ACO Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

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

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 601R–22–017, Revision C, dated May 11, 2016.

(ii) Bombardier Service Bulletin 670BA–22–007, Revision A, dated February 16, 2016.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet: *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on March 2, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–05014 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0063]

RIN 1625–AA00

Safety Zone: Juan Benitez Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the navigable waters of the San Francisco Bay near Point Cavallo in support of the Juan Benitez Fireworks Display on March 24, 2018. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 9:00 a.m. to 8:40 p.m. on March 24, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2018–0063. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

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

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

APA Administrative Procedure Act
COTP U.S. Coast Guard Captain on the Port
DHS Department of Homeland Security
FR Federal Register
NOAA National Oceanic and Atmospheric Administration
NPRM Notice of proposed rulemaking
PATCOM U.S. Coast Guard Patrol Commander
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final 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. Since the Coast Guard received notice of this event on February 22, 2018, notice and comment procedures would be impracticable in this instance.

For similar reasons as those stated above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) San Francisco has determined that potential hazards associated with the planned fireworks display on March 24, 2018, will be a safety concern for anyone within a 100-foot radius of the fireworks barge and anyone within a 560-feet radius of the fireworks firing site. This rule is needed to protect spectators, vessels, and other property from hazards associated with pyrotechnics.

IV. Discussion of the Rule

This rule establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display. During the loading of the pyrotechnics onto the fireworks barge, scheduled to take place from 9:00 a.m. to 2:00 p.m. on March 24, 2018, at Pier 50 in San Francisco, CA, the safety zone will encompass the navigable waters around and under the fireworks barge within a radius of 100 feet.

The fireworks barge will remain at Pier 50 until the start of its transit to the display location. Towing of the barge from Pier 50 to the display location is scheduled to take place from 5:30 p.m. to 7:00 p.m. on March 24, 2018 where it will remain until the conclusion of the fireworks display.

At 8:00 p.m. on March 24, 2018, 30 minutes prior to the commencement of the 10-minute fireworks display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 560 feet in approximate position 37°49′48″ N, 122°28′26″ W (NAD 83) for the Juan Benitez Fireworks Display. The safety zone shall terminate at 8:40 p.m. on March 24, 2018.

The effect of the temporary safety zone is to restrict navigation in the vicinity of the fireworks loading, transit, and firing site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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.

This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of these safety zones via Broadcast Notice to Mariners.

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

compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 safety zones of limited size and duration. It is categorically excluded from further review under Categorical Exclusion L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–918 to read as follows:

§ 165.T11–918 Safety Zone; Juan Benitez Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the San Francisco Bay within 100 feet of the fireworks barge during loading at Pier 50, as well as transit to and arrival at Point Cavallo. The safety zone will expand to all navigable waters around and under the fireworks barge within a radius of 560 feet in approximate position 37°49′48″ N, 122°28′26″ W (NAD 83) at 8:00 p.m., 30 minutes prior to the start of the 10 minute fireworks display scheduled to begin at 8:30 p.m. on March 24, 2018.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 9:00 a.m. until approximately 8:40 p.m. March 24, 2018. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: March 19, 2018.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2018–05925 Filed 3–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0125]

RIN 1625–AA00

Safety Zone: Pier 39 Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the navigable waters of the San Francisco Bay near Pier 39 in support of the Pier 39 Fireworks Display on March 24, 2018. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 11:00 a.m. to 9:15 p.m. on March 24, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2018–0125. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

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

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

APA Administrative Procedure Act
COTP U.S. Coast Guard Captain on the Port
DHS Department of Homeland Security
FR Federal Register
NOAA National Oceanic and Atmospheric Administration
NPRM Notice of proposed rulemaking
PATCOM U.S. Coast Guard Patrol Commander
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final 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. Since the Coast Guard received notice of this event on February 22, 2018, notice and comment procedures would be impracticable in this instance.

For similar reasons as those stated above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) San Francisco has determined that potential hazards associated with the planned fireworks display on March 24, 2018, will be a safety concern for anyone within a 100-foot radius of the fireworks barge and anyone within a 420-foot radius of the fireworks firing site. This rule is needed to protect spectators, vessels, and other property from hazards associated with pyrotechnics.

IV. Discussion of the Rule

This rule establishes a temporary safety zone during the loading and transit of the fireworks barge, until after completion of the fireworks display. During the loading of the pyrotechnics, onto the fireworks barge, scheduled to take place from 11:00 a.m. to 5:00 p.m. on March 24, 2018, at Pier 50 in San Francisco, CA the safety zone will encompass the navigable waters around and under the fireworks barge within a radius of 100 feet.

The fireworks barge will remain at Pier 50 until the start of its transit to the display location. Towing of the barge from Pier 50 to the display location is scheduled to take place from 7:00 p.m. to 7:45 p.m. on March 24, 2018 where it will remain until the conclusion of the fireworks display.

At 8:00 p.m. on March 24, 2018, 30 minutes prior to the commencement of the 12-minute fireworks display, the safety zone will increase in size and encompass the navigable water around and under the fireworks barge within a radius of 420 feet in approximate position 37°48′47″ N, 122°24′44″ W (NAD 83) for the Pier 39 Fireworks Display. The safety zone shall terminate at 9:15 p.m. on March 24, 2018.

The effect of the temporary safety zone is to restrict navigation in the vicinity of the fireworks loading, transit, and firing site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') 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 including potential economic, environmental, public health and safety effects, distributive impacts, and equity. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. This regulatory action determination is based on the size, location, duration of the safety zone. The size of the zone is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. This zone is of limited duration and is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. The Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule

allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such 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 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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 is categorically excluded from further review under paragraph L60(c) of Section L of the Department of Homeland Security Instruction Manual 023–01–001–01 (series). An environmental analysis checklist supporting this determination and Record of Environmental Consideration (REC) are 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 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.

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.T11–919 to read as follows:

§ 165.T11–919 Safety Zone; Pier 39 Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the San Francisco Bay within 100 feet of the fireworks barge during loading at Pier 50, as well as transit and arrival at Pier 39 in San Francisco, CA. From 11:00 a.m. until approximately 5:00 p.m. on March 24, 2018, the fireworks barge will be loading at Pier 50 in San Francisco, CA. The safety zone will expand to all navigable waters around and under the firework barge within a radius of 420 feet in approximate position 37°48′47″ N, 122°24′44″ W (NAD 83), 30 minutes prior to the start of the 12 minute fireworks display, scheduled to begin at 8:30 p.m. on March 24, 2018.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 11:00 a.m. until approximately 9:15 p.m. March 24, 2018. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or

assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: March 19, 2018.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2018–05922 Filed 3–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

[Docket No. SLSDC–2016–0005]

RIN 2135–AA44

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada starting in the 2018 navigation season, which are effective only in Canada. An amendment to increase the minimum charge per lock for those vessels that are not pleasure craft or subject in Canada to tolls under items 1 and 2 of the Tariff for full or partial transit of the Seaway will apply in the U.S. (See **SUPPLEMENTARY INFORMATION**.) The Tariff of Tolls will become effective in Canada on March 29, 2018. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

DATES: This rule is effective on March 29, 2018.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov*; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising 33 CFR 402.12, ''Schedule of tolls'', to reflect the fees and charges levied by the SLSMC in Canada beginning in the 2018 navigation season. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the SLSDC on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)).

The SLSDC is amending 33 CFR 402.12, ''Schedule of tolls'', to increase the minimum charge per vessel per lock for full or partial transit of the Seaway from $28.01 to $28.29. This charge is for vessels that are not pleasure craft or subject in Canada to the tolls under items 1 and 2 of the Tariff. This increase is due to higher operating costs at the locks.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et reg.) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends 33 CFR part 402 as follows:

PART 402—TARIFF OF TOLLS

■ 1. The authority citation for part 402 continues to read as follows:

Authority: 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.52.

■ 2. Revise § 402.12 to read as follows:

§ 402.12 Schedule of tolls.

Item	Column 1 Description of charges	Column 2 Rate ($) Montreal to or from Lake Ontario (5 locks)	Column 3 Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1	Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
	(1) a charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time [1].	0.1093	0.1749.
	(2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
	(*a*) bulk cargo	1.1329	0.7733.
	(*b*) general cargo	2.298	1.2376.
	(*c*) steel slab	2.4706	0.8860.
	(*d*) containerized cargo	1.1329	0.7733.
	(*e*) government aid cargo	n/a	n/a.
	(*f*) grain	0.6960	0.7733.
	(*g*) coal	0.6891	0.7733.
	(3) a charge per passenger per lock	1.6974	1.6974.
	(4) a lockage charge per Gross Registered Ton of the vessel, as defined in tem 1(1), applicable whether the ship is wholly or partially laden, or is in ballast, for transit of the Welland Canal in either direction by cargo ships.	n/a	0.2913.
	Up to a maximum charge per vessel	n/a	4,074.
2	Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).	13 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).
3	Minimum charge per vessel per lock transited for full or partial transit of the Seaway.	28.29 [2]	28.29.
4	A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes [3].	30.00 [4]	30.00.
5	Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period.	20%	20%.
6	Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume.	10%	10%.
7	Under the New Service Incentive Program, for New Business cargo moving under an approved new service, an additional percentage refund on applicable cargo tolls above the New Business rebate.	20%	20%.

[1] Or under the US GRT for vessels prescribed prior to 2002.

[2] The applicable charged under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)). The other charges are in Canadian dollars and are for the Canadian share of tolls.

[3] $5.00 discount per lock applicable on ticket purchased for Canadian locks via PayPal.

[4] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $30 U.S. or $30 Canadian per lock.

Issued at Washington, DC, on March 19, 2018.

Saint Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2018–05904 Filed 3–22–18; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0408; FRL–9975–85–Region 3]

Air Plan Approval; Delaware; State Implementation Plan for Interstate Transport for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Delaware. The Clean Air Act's (CAA) Good Neighbor Provision requires EPA and states to address the interstate transport of air pollution that affects the ability of downwind states to attain and maintain the national ambient air quality standards (NAAQS). Specifically, the Good Neighbor Provision requires each state in its SIP to prohibit emissions that will significantly contribute to nonattainment, or interfere with maintenance, of a NAAQS in a downwind state. Delaware submitted a SIP revision on March 23, 2013 that addresses the interstate transport requirements for the 2008 ozone NAAQS. On September 27, 2017, EPA published a proposed rule and a direct final rule approving Delaware's SIP in regard to the Good Neighbor Provision. However, EPA received adverse comments on its September 27, 2017 proposed rule, and subsequently withdrew the accompanying direct final rule. After considering the comments, EPA is approving Delaware's SIP revision submittal in regard to the Good Neighbor Provision for the 2008 ozone NAAQS in accordance with the requirements of the CAA.

DATES: This final rule is effective on April 23, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0408. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: On March 27, 2013, the State of Delaware through the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2), including 110(a)(2)(D)(i)(I), of the CAA as it relates to the 2008 ozone NAAQS. On September 27, 2017, EPA published a notice of proposed rulemaking (NPR) (82 FR 44984) and an accompanying direct final rule (DFR) (82 FR 44932) for the State of Delaware, approving the portion of the March 27, 2013 Delaware SIP revision addressing prongs 1 and 2 of the interstate transport requirements for section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. EPA received comments on the proposed rulemaking and the Agency subsequently withdrew the DFR on November 20, 2017 (82 FR 55052). This action responds to the comments received and finalizes EPA's approval of the portion of the March 27, 2013 Delaware SIP revision addressing section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS.

I. Background

On March 12, 2008, EPA revised the levels of the primary and secondary ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). The CAA requires states to submit, within three years after promulgation of a new or revised NAAQS, SIP revisions meeting the applicable elements of sections 110(a)(1) and (2).[1] Several of these applicable elements are delineated within section 110(a)(2)(D)(i) of the CAA. Section 110(a)(2)(D)(i) generally requires SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on neighboring states due to interstate transport of air pollution. There are four prongs within section 110(a)(2)(D)(i) of the CAA; section 110(a)(2)(D)(i)(I) contains prongs 1 and 2, while section 110(a)(2)(D)(i)(II) includes prongs 3 and 4. This action addresses the first two prongs, which are also collectively known as the Good Neighbor Provision. Pursuant to prongs 1 and 2, a state's SIP must contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard.'' Under section 110(a)(2)(D)(i)(I) of the CAA, EPA gives independent significance to the matter of nonattainment (prong 1) and to that of maintenance (prong 2).

On March 27, 2013, the State of Delaware through DNREC submitted a SIP revision intended to address the requirements of section 110(a)(2) of the CAA for the 2008 ozone NAAQS. In this rulemaking action, EPA is approving one portion of Delaware's March 27, 2013 submittal—the portion addressing prongs 1 and 2 of section 110(a)(2)(D)(i)(I) of the CAA. EPA previously acted on other portions of Delaware's March 27, 2013 SIP submittal for the 2008 ozone NAAQS.[2]

To demonstrate that its SIP adequately addresses interstate transport for the 2008 ozone NAAQS, Delaware's March 27, 2013 submittal identifies measures in its approved SIP that cover stationary, mobile, and area sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X), both of which are precursors to ozone. Delaware's submittal identifies SIP-approved regulations that reduce VOC and NO_X emissions from a variety of stationary sources within the State, including power plants, industrial boilers, and peaking units. Delaware states in its submittal that its sources are generally controlled with best available control technology (BACT) or lowest achievable emission rate (LAER) level controls. Delaware notes that sources are generally controlled on a unit-by-unit basis at costs ranging from $1,300 to $11,000 per ton of NO_X reduced.[3] To

[1] SIP revisions that are intended to meet the requirements of section 110(a) of the CAA are often referred to as infrastructure SIPs and the elements under 110(a) are referred to as infrastructure requirements.

[2] On April 3, 2014 (79 FR 18644), EPA approved portions of Delaware's March 27, 2013 submittal for the 2008 ozone NAAQS addressing the following: CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). In that action, EPA stated it would take later action on the portion of the March 27, 2013 SIP submittal addressing section 110(a)(2)(D)(i)(I) of the CAA.

[3] *See* ''Attachment A,'' State Submittal—Delaware Section 110(a)(2) Infrastructure Requirements for

Continued

substantiate its control costs and feasibility claims, Delaware includes an assessment of potential additional control measures on mobile and stationary sources, including both electric generating unit (EGU) and non-EGU categories. The assessment evaluates, for each source or category, the technical and economic feasibility for additional NO_X and VOC reductions. For non-EGUs, Delaware could not identify any cost-effective controls beyond those already required by the SIP; estimating that at about $5,000 per ton of pollutant (VOC, NO_X) reduced, only a small amount of additional emission reductions would be seen.[4] In its submittal, Delaware identifies the following Delaware regulations, which are already included in its approved SIP: 7 DE Admin. Code 1125 (New Source Review); 7 DE Admin. Code 1112 (NO_X Reasonably Available Control Technology (RACT)); 7 DE Admin. Code 1124 (VOC RACT); 7 DE Admin. Codes 1126 and 1136 (vehicle inspection and maintenance (I/M) control measures). In its submittal, Delaware concludes that it has satisfied the requirements for section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS because its sources are already well controlled for NO_X and VOCs, and because further reductions beyond the State's current SIP measures for NO_X and VOCs are not economically feasible.

II. EPA Analysis

A. Cross-State Air Pollution Rule Update

The CAA gives EPA a backstop role, as appropriate, in the event that states fail to submit approvable SIPs. On September 8, 2016, EPA took steps to effectuate this backstop role with respect to emissions in 22 eastern states (not including Delaware) by finalizing an update to the Cross-State Air Pollution Rule (CSAPR) ozone season program that addresses the obligations of the Good Neighbor Provision for the 2008 ozone NAAQS. 81 FR 74504. The CSAPR Update established a federal trading program for affected EGUs to reduce the interstate transport of ozone pollution in the May–September ozone season in the eastern United States, and thereby help downwind states and communities meet and maintain the 2008 ozone NAAQS.[5] The CSAPR Update uses the same framework EPA used when developing the original CSAPR, EPA's transport rule addressing the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter ($PM_{2.5}$) NAAQS. This framework establishes the following four-step process to address the requirements of the Good Neighbor Provision:

(1) identify downwind receptors that are expected to have problems attaining or maintaining the NAAQS;

(2) determine which upwind states contribute to these identified problems in amounts sufficient to link them to the downwind air quality problems;

(3) identify and quantify, for states linked to downwind air quality problems, upwind emissions that significantly contribute to nonattainment or interfere with maintenance of a NAAQS; and

(4) reduce the identified upwind emissions for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind by adopting permanent and enforceable measures through a SIP or by participating in a federal trading program.

This four-step framework is informed by cost-effectiveness and feasibility of controls, emissions, meteorology, and air quality factors. Notably, the determination as to whether a linked state significantly contributes to nonattainment or interferes with maintenance of the NAAQS in a downwind state is made at step 3 based on a multi-factor evaluation of control costs, available NO_X emission reductions, and air quality improvements (including consideration of potential over-control).[6]

B. EPA's Assessment of Delaware in the CSAPR Update

While EPA's CSAPR Update analysis included an assessment of Delaware, the State was not included in the final CSAPR Update federal trading program for EGUs. Nonetheless, the CSAPR Update includes technical information and related analysis that can assist EPA and states with evaluating the requirements of section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS. In the CSAPR Update, EPA found in steps 1 and 2 of the four-step framework that Delaware is linked to a downwind maintenance receptor in Philadelphia County, Pennsylvania. 81 FR 74538. Accordingly, EPA further evaluated Delaware in step 3 of the framework to determine whether there were cost-effective NO_X emission reductions available from EGUs in the state.

In the CSAPR Update, EPA examined emission reductions available at various levels of control stringency, represented by cost-thresholds of $0 per ton; $800 per ton; $1,400 per ton; $3,400 per ton; $5,000 per ton; and $6,400 per ton. This analysis accounted for existing limits on Delaware EGUs in the State's March 27, 2013 SIP submittal. Notably, for Delaware, EPA's assessment of EGUs' NO_X reduction potential showed no cost-effective reductions available in Delaware within the allotted short term implementation timeframe (by 2017 for the 2008 ozone NAAQS) at every cost threshold EPA evaluated because the Delaware EGUs are already equivalently controlled. 81 FR at 74553. In addition, Delaware's March 27, 2013 submittal evaluated sources other than EGUs and the State could not identify any cost-efficient controls for reducing VOCs or NO_X beyond those already required by the SIP.

C. Air Quality Assessment Tool

The emission reductions at the various levels of control stringency analyzed by EPA could result in air quality improvements such that individual receptors drop below the level of the 2008 ozone NAAQS based on the cumulative air quality improvement from the states analyzed. Therefore, in finalizing the CSAPR Update, EPA explicitly evaluated whether the potential emission budgets evaluated for each state would result in over-control of upwind state emissions,[7] as required by precedents of the Supreme Court and D.C. Circuit.[8] Specifically, EPA evaluated whether at each level of NO_X emission budget, the identified downwind ozone problems (*i.e.,* nonattainment or maintenance problems) are resolved.

In examining emissions contribution to nonattainment and maintenance receptors for the 2008 ozone NAAQS, EPA used the Air Quality Assessment

the 2008 Ozone NAAQS, *www.regulations.gov,* Docket number EPA–R03–OAR–2013–0408.

[4] In its March 27, 2013 submittal, Delaware stated that at about $5,000 per ton, the State could reduce NO_X emissions by about 375 tons per year (tpy) and VOCs by 255 tpy.

[5] Ground-level ozone is formed when VOCs and NO_X combine in the presence of sunlight. The rate of ozone production can be limited by the availability of either VOCs or NO_X. In the case of the eastern states, ozone reduction has shown to be more effective by reducing NO_X which is why reducing NO_X emissions is the focus of both the CSAPR Update and this rulemaking action regarding Delaware.

[6] CSAPR Update final rule. 81 FR 74504, 74519 (October 26, 2016).

[7] In this rulemaking action, the term ''over-control'' describes the possibility that a state might be compelled to reduce emissions beyond the point at which every affected downwind state is projected to attain and maintain the NAAQS. *See EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 2014; *EME Homer City Generation, L.P.* v. *EPA*, 795 F.3d 118, 127 (D.C. Cir. July 28, 2015).

[8] *Id.*

Tool (AQAT) to estimate the air quality impacts of the upwind state EGU NO_X emission budgets on downwind ozone pollution levels for each of the assessed EGU NO_X emission budget levels. EPA assessed the magnitude of air quality improvement at each receptor at each level of control, examined whether receptors are considered to be resolved,[9] and looked at the individual contributions of emissions from each state to each of that state's linked receptors. EPA also examined each state's air quality contributions at each potential level of control stringency, assessing whether a state maintained at least one linkage to a receptor that was estimated to continue to have nonattainment or maintenance problems with the 2008 ozone NAAQS.

As stated in section VI.D. in the preamble of the final CSAPR Update and in the Ozone Transport Policy Analysis Technical Support Document (TSD) used to support the final CSAPR Update, EPA's AQAT assessment indicates that an emissions budget reflecting $800 per ton of NO_X reduced would resolve the maintenance problem at the Philadelphia, Pennsylvania maintenance receptor (monitor ID 4210100124) to which Delaware was linked. Thus, EPA estimated that implementation of the CSAPR Update, along with NO_X controls in Delaware's SIP submittal, are anticipated to resolve the lone downwind receptor to which Delaware is linked.

D. Conclusion

In conclusion, when evaluating all the available information, EPA finds that Delaware has implemented measures that have reduced statewide VOC and NO_X emissions and that should continue to reduce emissions within the State. The maintenance receptor that Delaware is linked to in the CSAPR Update is projected by EPA to have its maintenance issue resolved with CSAPR Update implementation [10] and existing NO_X controls in place in Delaware. EPA further finds Delaware has no cost-effective EGU NO_X emissions reduction potential by 2017, beyond what is already required in Delaware's SIP, at or below the maximum $6,400 per ton cost-threshold evaluated in the CSAPR Update. Additionally, EPA finds that Delaware's non-EGU sources are also well-controlled and that there is limited VOC and NO_X emissions reduction potential, beyond what it already required in the State's SIP, at and below a $5,000 per ton cost-threshold. Thus, EPA finds Delaware has fully satisfied its obligation with respect to the requirements of section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS, and EPA is approving the portion of the March 27, 2013 Delaware SIP submittal addressing prongs 1 and 2 of the interstate transport requirements for the 2008 ozone NAAQS.

III. Summary of Public Comments and EPA Responses

During the comment period, EPA received several anonymous comments on the rulemaking. EPA provides responses to two of these comments, below. All other comments received were not specific to this action and thus are not addressed here.

Comment #1: The first commenter stated that EPA cannot rely on federal implementation plans (FIPs) to reduce the downwind contribution of air pollution to another state and pointed out that section 110(a)(2)(D) of the CAA requires that measures addressing interstate transport must be approved into the State's SIP. The commenter believes that EPA stated in its DFRN [11] that Delaware has been shown to significantly contribute to the Philadelphia receptor, and subsequently the commenter states that EPA cannot approve Delaware's plan because the necessary measures to reduce interstate transport of air pollutants to other states cannot be met without a FIP. Further, the commenter states that ''the fact that Delaware is included in the Federal plan means that EPA has already determined that the state's own plan does not meet the requirement of 110.'' The commenter asks EPA to reconsider and disapprove Delaware's plan until ''such time as Delaware is able to implement its own plan and that plan is approved into the SIP.''

Response: As an initial matter, EPA disagrees that FIPs are an inappropriate tool to address the requirements of section 110(a)(2)(D)(i)(I). Pursuant to section 110(c), whenever EPA finds that a state has failed to make a required submission or disapproves a state's submission, the Agency has an obligation to promulgate a FIP to address the deficiencies in a state's plan, including the requirements of section 110(a)(2)(D)(i)(I). Since 2005, EPA has relied on federal trading programs, such as the Clean Air Interstate Rule (CAIR), its replacement CSAPR, and the CSAPR Update in order to reduce the downwind contributions of air pollution to another state via the promulgation of FIPs. In 2014, the United States Supreme Court upheld CSAPR in *EPA* v. *EME Homer City Generation, L.P.,* finding that EPA had the authority to promulgate a FIP upon a determination that a state had failed to make an adequate submission. 134 S. Ct. 1584, 1601 (2014). Thus, EPA disagrees with the commenter's premise that EPA cannot rely on federal plans to reduce the downwind contribution of air pollution to another state in addressing section 110(a)(2)(D) of the CAA.

Nonetheless, whether or not EPA may rely on a FIP to address the requirements of the Good Neighbor Provision is irrelevant to EPA's action on Delaware's SIP because its approval is not contingent on a FIP. EPA did not promulgate a FIP for Delaware in the CSAPR Update (the federal plan to which the commenter presumably refers). Accordingly, contrary to the commenter's assertion, EPA did not already determine in that rulemaking that the State's submittal does not meet the requirements of section 110(a)(2)(D)(i)(I) of the CAA. Rather, EPA explicitly stated that it would further evaluate the state's compliance with the Good Neighbor Provision when it evaluated the State's SIP in a separate action. *See* 81 FR at 74553.

EPA also disagrees with the commenter's assertion that EPA stated in its September 27, 2017 DFR that Delaware was shown to ''significantly contribute'' to the Philadelphia, Pennsylvania receptor. In fact, as EPA stated in its DFR and again in this final notice, the Agency used a four-step framework to evaluate each state in order to determine whether the state will significantly contribute to nonattainment or interfere with maintenance of downwind air quality. While EPA's analysis did determine that the Philadelphia monitor/receptor was expected to have problems attaining or maintaining the 2008 ozone NAAQS (step 1 of four-step framework) and that Delaware was linked to the downwind air of the Philadelphia receptor (step 2 of the framework), this is not equivalent to a determination that Delaware will significantly contribute to nonattainment or interfere with maintenance. Rather, this determination is made at step 3 of the framework and depends on whether EGUs in the linked state have available cost-effective NO_X

[9] When the average and maximum design values of a receptor decrease to values below 76 parts per billion (ppb) or (0.076 ppm), the nonattainment and maintenance issues of the receptor would be considered resolved.

[10] EPA notes that the preliminary 2014–2016 design value for the identified CSAPR Update Philadelphia maintenance site does not reflect the air quality improvements anticipated as a result of the CSAPR Update implementation because sources began compliance with the rule in May 1, 2017.

[11] September 27, 2017 (82 FR 44932).

emission reductions.[12] As noted above, EPA determined that Delaware's sources were already being controlled at levels equivalent to the cost-threshold applied to linked states in the CSAPR Update, and therefore had no cost-effective emission reductions available from EGUs in the State. Thus, EPA did not conclude that Delaware significantly contributes to nonattainment or interferes with maintenance in the CSAPR Update and did not involve the State in a FIP.

Therefore, EPA disagrees with the commenter that Delaware relies on any FIP to meet section 110(a)(2)(D) of the CAA for the 2008 ozone NAAQS, and the Agency thus disagrees that it should disapprove Delaware's plan until ''such time as Delaware is able to implement its own plan and that plan is approved into the SIP.'' EPA has discussed in section II of this notice why EPA agrees with Delaware's determination in its March 27, 2013 SIP revision submittal that the SIP contains the necessary measures to address prongs 1 and 2 of the interstate transport requirements for section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.

Comment: The second commenter stated that EPA did not address a March 28, 2017 Executive Order regarding the promotion of energy independence and economic growth. The Executive Order required federal agencies to review all regulations to ensure they do not impose unnecessary burdens on the economy.

Response: The March 28, 2017 Executive Order (E.O.)[13] pertains to reviewing existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency action) that potentially burden the development or use of domestically produced energy resources, with attention to oil, natural gas, coal, and nuclear energy. EPA does not believe that EPA's regulatory action to approve Delaware's SIP submittal is inconsistent with this E.O. Specifically, EPA is approving Delaware's submission on the grounds that the controls that it already imposes address interstate transport of emissions, such that its sources do not significantly contribute to nonattainment or interfere with maintenance in another state. In any event, if a SIP submittal from a state meets all the requirements of section 110(a)(2) of the CAA, including the required emission limitations, then section 110(k)(3) of the CAA requires that EPA shall approve the SIP submission. As explained in section II of this action, the Agency finds that the Delaware SIP meets the requirements of section 110(a)(2)(D)(i)(I) of the CAA with respect to the 2008 ozone NAAQS. Thus, under the plain language of section 110(k)(3), EPA must approve the SIP submission, and cannot disapprove it based on the March 28, 2017 E.O.

[12] The Supreme Court held that it was a permissible interpretation of the statute to apportion responsibility for states linked to nonattainment receptors considering ''both the magnitude of upwind States' contributions and the cost associated with eliminating them.'' *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. at 1606.

[13] Based on the comment, EPA assumes the E.O. in question is E.O. 13738, Promoting Energy Independence and Economic Growth, signed March 28, 2017.

IV. Final Action

EPA is approving the portion of the March 27, 2013 Delaware SIP revision addressing prongs 1 and 2 of the interstate transport requirements for section 110(a)(2)(D)(i)(I) of the CAA for the 2008 ozone NAAQS for the reasons discussed in this rulemaking.

On April 3, 2014 (79 FR 18644), EPA finalized approval of the following infrastructure elements or portions thereof from the March 27, 2013 submittal: CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action approves the remaining portions of the March 27, 2013 SIP revision, which address prongs 1 and 2 of section 110(a)(2)(D)(i)(I) of the CAA, also known as the Good Neighbor Provision. EPA did not take action upon these elements in the Agency's prior SIP approval action, published on April 3, 2014 (79 FR 18644).

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, addressing Delaware's interstate transport for the 2008 ozone NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 13, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding an entry for ''Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS'' after the entry for ''Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS'' (with an EPA approval date of 4/3/2014) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Statewide	3/27/13	3/23/18 [*Insert* **Federal Register** *citation*].	This action addresses CAA element 110(a)(2)(D)(i)(I).
*	*	*	*	*

[FR Doc. 2018–05868 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0342; FRL–9975–86–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Pennsylvania's Adoption of Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Commonwealth of Pennsylvania's state implementation plan (SIP). The revision includes amendments to the Pennsylvania Department of Environmental Protection's (PADEP) regulations incorporating the control techniques guidelines (CTG) for the automobile and light-duty truck assembly coatings category and addresses the requirement to adopt reasonably available control technology (RACT) for that category. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on April 23, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0342. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Ground level ozone is formed in the atmosphere by photochemical reactions between volatile organic compounds (VOCs), nitrogen oxides (NO_X), and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply controls on VOC and NO_X emission sources to achieve emission reductions. Among effective control measures, RACT controls significantly reduce VOC and NO_X emissions from major stationary sources. NO_X and VOC are referred to as ozone precursors and are emitted by many types of pollution sources, including motor vehicles, power plants, industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects occur following exposure to ozone. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761 at 53762, September 17, 1979). Section 182 of the CAA sets forth two separate RACT requirements for

ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the CAA was amended in 1990. Pennsylvania previously corrected its deficiencies under the 1-hour ozone standard and has no further deficiencies to correct under this section of the CAA. The second requirement, set forth in section 182(b)(2) of the CAA, applies to moderate (or worse) ozone nonattainment areas as well as to marginal and attainment areas in ozone transport regions (OTRs) established pursuant to section 184 of the CAA, and requires these areas to implement RACT controls on all major VOC and NO_X emission sources and on all sources and source categories covered by a CTG issued by EPA.[1] *See* CAA section 182(b)(2) and 184(b).

In subsequent **Federal Register** notices, EPA has addressed how states can meet the RACT requirements of the CAA. In June 1977, EPA published a CTG for automobile and light-duty truck assembly coatings (EPA–450/2–77–008). This CTG discusses the nature of VOC emissions from this industry, available control technologies for addressing such emissions, the costs of available control options, and other items. EPA also published a national emission standard for hazardous air pollutants (NESHAP) for surface coating of automobiles and light-duty trucks in 2004 (40 CFR part 63, subpart IIII).

In 2008, after conducting a review of currently existing state and local VOC emission reduction approaches for this industry, reviewing the 1977 CTG and the NESHAP for this industry, and considering the information that has become available since then, EPA developed a new CTG for automobile and light-duty truck assembly coatings, entitled Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings (Publication No. EPA 453/R–08–006).

[1] CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the OTR must implement RACT with respect to sources of VOCs in the state covered by a CTG issued before or after November 15, 1990.

On November 18, 2016, the PADEP submitted a formal revision to the Commonwealth of Pennsylvania's SIP to adopt EPA's 2008 CTG for automobile and light-duty truck assembly coatings. The new regulation reflecting this adoption can be found under 25 *Pa. Code* Chapter 129—Standards for Sources. Specifically, this revision adds to the SIP 25 *Pa. Code* § 129.52e which adopts the RACT requirements for automobile and light-duty assembly coatings and covers heavier vehicle coating operations as well. The revision also includes changes to 25 *Pa. Code* § 129.51 to accommodate alternative compliance methods for the adopted CTG.

II. Summary of SIP Revision and EPA Analysis

EPA's CTG for automobile and light-duty truck assembly coatings includes recommendations to reduce VOC emissions. These recommendations include VOC emissions limits for coating operations; work practices for storage and handling of coatings, thinners, and coating waste materials; and work practices for the handling and use of cleaning materials. The emission limits for coating processes covered by this CTG are found in Table 1 of the technical support document (TSD) which EPA prepared supporting this rulemaking.[2] Table 1 includes emission limits expressed in kilograms of VOC per liter (kg VOC/liter) and pounds of VOC per gallon (lbs VOC/gal). The emission limits for the miscellaneous materials used at coating facilities are found in Table 2 of the TSD. Table 2 includes emission limits expressed in grams of VOC per liter (g VOC/liter). Additional information regarding this CTG can be found in the TSD found in the docket for this rulemaking and available online at *www.regulations.gov*.

PADEP's submittal presented the regulatory revisions undertaken to adopt EPA's CTG for automobile and light-duty truck coatings. PADEP revised 25 Pa. Code Chapter 129—Standards for Sources to adopt the aforementioned CTG. The revisions include the addition of § 129.52e which adopts the RACT requirements for automobile and light-duty truck assembly coatings as stated by EPA in the relevant CTG for this category of sources. The revision also includes updates to 25 *Pa. Code* § 129.51 to accommodate alternative compliance methods for the adopted CTG. Additional information regarding PADEP's submittal can be found within the TSD and state submittal which are both located in this docket and available online at *www.regulations.gov.*

[2] The TSD is available in the docket for this proposed rulemaking and available online at *www.regulations.gov.*

EPA reviewed PADEP's submittal and found that the regulatory changes reflect EPA's CTG for automobile and light-duty trucks. The emission limits for the coating processes as well as the emission limits for the miscellaneous materials used during coating processes are consistent with those recommended in EPA's CTG. Additionally, the regulatory changes address EPA's recommended work practices.

EPA notes that under 25 *Pa. Code* § 129.52e(c), *Existing RACT permit,* PADEP is allowing the provisions of § 129.52e to supersede the requirements of a RACT permit previously issued under 25 *Pa. Code* §§ 129.91–129.95 if the permit was issued prior to January 1, 2017 and to the extent that the RACT permit contains less stringent requirements than those in 25 *Pa. Code* § 129.52e. EPA further notes that the RACT permits issued under §§ 129.91–129.95 were issued for previous RACT determinations on a case-by-case basis; these permits would then have been submitted to EPA as source-specific SIP revisions and would likely have been approved by EPA for inclusion into the Pennsylvania SIP. If EPA approved those source-specific RACT determinations as meeting the requirements of RACT under the CAA, then the permits associated with those determinations were approved into the SIP and would have been identified at 40 CFR 52.2020(d). To the extent that the provisions of § 129.52e are more stringent than those of a previous SIP-approved permit, PADEP may make a source-specific determination as to whether the requirements of the previous RACT permit apply, or those of § 129.52e. If PADEP chooses to make such a determination to remove prior case-by-case RACT limits from the SIP, such revision must be submitted to EPA as a SIP revision in order to remove the previously approved permit from the SIP and must meet requirements under CAA section 110(l). Otherwise, the previously approved RACT limits (even if less stringent) remain applicable requirements for sources subject now to the more stringent CTG also. Until such a SIP revision is made, the requirements of 25 *Pa. Code* 129.52e and the SIP-approved case by case RACT requirements both apply and EPA cannot remove the source-specific permits from the SIP. EPA is not taking any such action in this rulemaking to remove previously approved RACT permits and thus the requirements of a previously SIP-approved permit still apply until such permit is removed from

the SIP even if the new limits, reflected in this CTG that Pennsylvania has adopted, are more stringent. EPA is approving PADEP's SIP submittal because the regulatory revisions adopt EPA's CTG for automobile and light-duty truck coatings.

On October 24, 2017 (82 FR 49128 and 82 FR 49166), EPA simultaneously published a notice of proposed rulemaking (NPR) and a direct final rule (DFR) for the Commonwealth of Pennsylvania approving the SIP revision. EPA received four adverse comments on the rulemaking and withdrew the DFR prior to the effective date of December 26, 2017.

III. Response to Comments

During the comment period, EPA received several anonymous comments on the rulemaking. Of the comments, one comment generally discussed climate change and a second comment generally discussed wildfires and wildland fire management policy; EPA believes these two comments are not germane to this rulemaking action, thus no further response is provided. The following is a summary of the comments that are pertinent to this rulemaking action along with EPA's response to those comments.

Comment #1: The first commenter stated that EPA did not address a March 28, 2017 Executive Order (E.O.) regarding the promotion of energy independence and economic growth.[3]

Response #1: EPA disagrees with the commenter's assertion that this rulemaking action required evaluation mandated under the E.O.. The E.O. in question pertains to reviewing existing regulations, order, guidance documents, policies, and any other similar agency actions (collectively, agency action) that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy. First, EPA does not believe this E.O. applies to this rulemaking action because, to the extent this rulemaking is considered an agency action under the E.O. this action was not an existing agency action as of March 28, 2017, the date the E.O. was signed. Second, assuming *arguendo,* that this rulemaking action is considered an agency action under the E.O. this rulemaking action does not create a burden as that term is defined in the E.O. As defined in the E.O., the term ''burden'' means, ''to unnecessarily obstruct, delay, curtail, or otherwise impose significant cost on the siting, permitting, production, utilization, transmission, or delivery of energy resources.'' This rulemaking action does not affect the siting, permitting, production, utilization, transmission, or delivery of energy resources as this action merely approves Pennsylvania's submission as meeting certain CTG requirements necessary under the CAA, thus any required review under this E.O. is not applicable. Finally, EPA does not have discretion to disapprove the state's SIP submission where it meets the applicable CAA requirements. CAA section 110(k)(3) requires that EPA ''shall'' approve the SIP submission ''as a whole'' if it meets the applicable requirements in the CAA. Pennsylvania's submission adopts RACT for sources identified in EPA's CTG, as required by CAA section 184(b). Thus, considering the plain language of the CAA in section 110(k)(3), EPA cannot consider disapproving or requiring changes to a state's SIP submittal based on a particular E.O. or statutory reviews.

Comment #2: The second commenter asserted that EPA should review its CTG and Alternative Control Technology (ACT) guidance documents to ''make sure they aren't too costly.'' The commenter further asserted that VOC reductions in Pennsylvania are not needed and EPA should only require RACT reductions in areas with ''bad air.'' The commenter concluded by stating EPA should withdraw the rule in its entirety to enable economic growth and promote jobs.

Response #2: EPA disagrees with the commenter that this rulemaking should be withdrawn and that EPA's CTGs and ACTs should be reviewed. The CTG at issue in this rulemaking was issued in 2008. This rulemaking action concerns only EPA's action approving Pennsylvania's SIP submission adopting the CTG requirements, and thus comments about the CTG itself are outside the scope of this action. In any case, EPA considered the cost of installing controls when developing the CTG and concluded, ''The recommended VOC emission rates described [in the CTG] reflect the control measures that are currently being implemented by these facilities. Consequently, there is no additional cost to implement the CTG recommendations for coatings.'' Further, the CTG went on to state the following for the work practices being recommended: ''The CTG also recommends work practices for reducing VOC emissions from both coatings and cleaning materials. We believe that our work practice recommendations in the CTG will result in a net cost savings. Implementing work practices reduces the amount of coating and cleaning materials used by decreasing evaporation.'' Thus, EPA did consider cost when issuing this CTG in a prior rulemaking.

EPA further disagrees with the commenter's assertion that VOC reductions are not needed in the entire Commonwealth of Pennsylvania, and disagrees that the state or EPA has the discretion not to implement those reductions. First, the commenter provided no evidence supporting a claim that VOC reductions are only needed in areas with ''bad air.'' (EPA assumes this is a reference to nonattainment areas). Second, Congress, through the CAA, has dictated that VOC RACT is required to be implemented throughout entire Commonwealth. CAA section 182(b)(2)(A) requires that, for each ozone nonattainment area classified as Moderate or above, the area must revise their SIPs to include RACT for each category of VOC sources covered by CTG documents issued between November 15, 1990 and the date of attainment. CAA section 184(a) further establishes a single OTR, of which the entire Commonwealth of Pennsylvania is included, and section 184(b)(1)(B) requires all states in the OTR to submit SIPs implementing RACT with respect to *all* sources of VOC in the state that are covered by a CTG. Finally, Pennsylvania and EPA are not permitted to ignore statutory mandates for any policy reason, including to promote jobs or to enable economic growth. Thus, the requirements of the CAA require Pennsylvania to revise its SIP in order to implement VOC RACT for all CTGs issued, including the automobile and light-duty truck assembly coating category. As Pennsylvania is in the OTR, VOC reductions from RACT and from implementing CTGs are required by the CAA in the entire Commonwealth.

IV. Final Action

EPA is approving the revision to Pennsylvania's SIP which adopts EPA's CTG for automobile and light-duty truck coatings because Pennsylvania's regulation incorporates the requirements of the CTG and thus meets requirements in CAA sections 110 and 184(b).

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation

[3] Based on the comment, EPA assumes the E.O. in question is E.O. 13738, Promoting Energy Independence and Economic Growth, signed March 28, 2017.

by reference of 25 Pa. Code Chapter 129—Standards for Sources, Sections 129.51 and 129.52e. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update of the SIP compilation.[4]

VI. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, in which Pennsylvania adopts EPA's CTG for automobile and light-duty truck assembly coatings, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 13, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by revising the entry for Section 129.51 and adding an entry for Section 129.52e.

The revision and addition read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) EPA-Approved Pennsylvania Regulations and Statutes

[4] 62 FR 27968 (May 22, 1997).

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
Chapter 129—Standards for Sources				
*	*	*	*	*
Sources of VOCs				
Section 129.51	General	10/22/16	3/23/18 [Insert **Federal Register** citation].	Amendments add alternative compliance methods for the requirements of Section 129.52e. Previous approval dated 6/25/2015.
*	*	*	*	*
Section 129.52e	Control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations.	10/22/16	3/23/18 [Insert **Federal Register** citation].	New section is added. This section does not remove or replace any permits approved under 52.2020(d).
*	*	*	*	*

* * * * *

[FR Doc. 2018–05872 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0413; FRL–9975–88—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State of West Virginia state implementation plan (SIP). The revisions update the effective date by which the West Virginia regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods. This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to fine particulate matter ($PM_{2.5}$), Carbon Monoxide (CO), and course particulate matter (PM_{10}), and it will revise the ozone monitoring season, the Federal Reference Method (FRM), the Federal Equivalent Method (FEM), and the Photochemical Assessment Monitoring Stations (PAMS) network. The SIP revision will also change a reference from the ''West Virginia Department of Environmental Protection,'' to the ''Division of Air Quality.'' EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 23, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0413. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On June 13, 2017, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a formal revision to West Virginia's SIP pertaining to amendments of Legislative Rule, 45 CSR 8—Ambient Air Quality Standards. The SIP revision consists of revising the effective date of the incorporation by reference of 40 CFR parts 50 and 53.

II. Summary of SIP Revision and EPA Analysis

West Virginia has submitted this SIP revision to update the State's incorporation by reference of 40 CFR part 50, which contains the Federal NAAQS, and 40 CFR part 53, which contains the ambient air monitoring reference methods and equivalent reference methods. Currently, the version of 45 CSR 8 in the West Virginia SIP incorporates by reference 40 CFR parts 50 and 53 as effective on June 1, 2013; this SIP revision will update the effective date to June 1, 2016.

In the June 13, 2017 SIP submittal, WVDEP submitted amendments to the legislative rule which include the following changes: To section 45–8–1 (General), the filing and effective dates are changed to reflect the update of the legislative rule; to section 45–8–3 (Adoption of Standards), the effective dates for the incorporation by reference of 40 CFR part 50 and part 53 are changed; to section 45–8–4 (Inconsistency Between Rules), the reference to the ''West Virginia Department of Environmental Protection,'' is changed to the ''Division of Air Quality.'' West Virginia has amended 45 CSR 8 to revise the filing

and effective dates of the rule to May 15, 2017 and June 1, 2017 respectively. The effective date of the incorporation by reference of 40 CFR parts 50 and 53 changed from June 1, 2013 to June 1, 2017. EPA finds the revised version of 45 CSR 8 with new effective dates incorporating by reference 40 CFR part 50 and part 53, as well as the changes to the reference of the state air agency, are in accordance with requirements in section 110 of the CAA.[1]

This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to $PM_{2.5}$, CO, and PM_{10}, and it will revise the ozone monitoring season to March 1st through October 31st, the FRM, the FEM, and the PAMS network.

On October 16, 2017 (82 FR 47981 and 82 FR48033), EPA simultaneously published a notice of proposed rulemaking (NPR) and a direct final rule (DFR) for the State of West Virginia approving the SIP revision. EPA received five comments on the rulemaking and withdrew the DFR prior to the effective date of December 15, 2017.

III. Response to Comments

During the comment period, EPA received several anonymous comments on EPA's rulemaking. EPA is responding to comments submitted on the proposed revision to the West Virginia SIP specific to this action. All other comments received were either supportive of or not specific to this action and thus are not addressed here.

Comment #1: The commenter expressed a desire for EPA to, ''[s]uspend or rescind the [past] admin rule.'' The commenter then continued with statements not specific to this action by copying sections from EPA's ''Policy Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides, External Review Draft'' (August 2017, EPA–452/P–17–003) (Draft PA) without providing any specific argument.

Response #1: The comment lacks any specifics regarding what action EPA should take regarding our proposal to incorporate by reference for the West Virginia SIP 45 CSR 8 which incorporates all NAAQS. Based on the context of the comment, it appears the comment is requesting that EPA suspend or rescind the 2010 Sulfur Dioxide (SO_2) NAAQS due to a lack of available information.

EPA is not in this action revising any SO_2 NAAQS nor any NAAQS and as such the references to the Draft PA are irrelevant. In this action, EPA is approving, in accordance with CAA section 110, West Virginia's request to incorporate by reference NAAQS EPA has previously promulgated in separate unrelated rulemakings. As the comment regarding suspending or rescinding prior ''admin'' rules such as the NAAQS is not germane to this rulemaking, EPA provides no further response.

Comment #2: A second comment stated that EPA should not add the 2015 ozone standard to any state's SIP as the Administrator has publicly stated the he intends to repeal the ozone standard. The commenter believes that his announcement can be interpreted as a promulgation by the Agency, and EPA should not act until the review is completed. The commenter also stated that EPA must hold off on any ozone action until a court review is completed.

Response #2: EPA disagrees with the commenter's assertion that the Agency has promulgated a repeal of the 2015 ozone NAAQS through public announcement. Until the Agency, through public notice and rulemaking, revises any NAAQS, including the 2015 ozone NAAQS, the NAAQS remain in place and states may seek to incorporate such NAAQS into their SIPs under CAA section 110. In 45 CSR 8, West Virginia updated the effective date of its incorporation by reference of the most recent version of the Code of Federal Regulations (CFR) so that West Virginia could incorporate by reference in its SIP all updated EPA NAAQS. While judicial action is pending relating to implementation of the 2015 ozone NAAQS, nothing prohibits a state like West Virginia from incorporating by reference the 2015 ozone NAAQS into its SIP.

Comment #3: The final comment expressed a desire for EPA to allow the state to incorporate the Federal standards (*i.e.,* NAAQS) on an ongoing basis so that the State does not have to expend taxpayer dollars and resources each time EPA updates 40 CFR parts 50 and 53 with new or revised NAAQS. The commenter also expressed a desire for EPA to, ''slow down the regulatory changes and allow states to meet the current standards before imposing new burdens on the states.''

Response #3: Nothing in the CAA requires states to incorporate the Federal standards each time EPA updates a NAAQS in 40 CFR parts 50 and 53. West Virginia has decided to incorporate the NAAQS in 45 CSR 8 that are effective as of a certain date. West Virginia's action is responsive to state concerns and limitations and is consistent with the CAA, thus this SIP submittal can be approved in this final action.

IV. Final Action

EPA is approving the amendments to Legislative Rule, 45 CSR 8—Ambient Air Quality Standards, into the West Virginia SIP pursuant to section 110 of the CAA.

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the update to West Virginia's Legislative Rule, 45 CSR 8, as effective on June 1, 2017. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update of the SIP compilation.[2]

VI. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

[1] This action, which approves West Virginia's rules incorporating by reference the NAAQS as of a certain date, is not affected by the recent decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* No. 15–1115 (D.C. Cir. Feb. 16, 2018).

[2] 62 FR 27968 (May 22, 1997).

action because SIP approvals are exempted under Executive Order 12866.

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, to approve West Virginia's SIP revisions to update of the effective date by which the State regulations incorporate by reference the Federal NAAQS, additional monitoring methods, and additional equivalent monitoring methods, which effectively adds the 2015 ozone NAAQS and ambient air monitoring reference and equivalent methods pertaining to $PM_{2.5}$, PM_{10}, and CO, and changing the reference to the state air agency, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 13, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table entitled ''EPA-Approved Regulations in the West Virginia SIP'' in paragraph (c) is amended by revising the entries for sections 45–8–1 through 45–8–4 to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
*	*	*	*	*
[45 CSR] Series 8 Ambient Air Quality Standards				
Section 45–8–1	General	6/1/17	3/23/18, [Insert **Federal Register** Citation].	Filing and effective dates are revised.
Section 45–8–2	Definitions	6/1/17	3/23/18, [Insert **Federal Register** Citation].	Previous Approval 9/22/2014.
Section 45–8–3	Adoption of Standards.	6/1/17	3/23/18, [Insert **Federal Register** Citation].	Effective date is revised.
Section 45–8–4	Inconsistency Between Rules.	6/1/17	3/23/18, [Insert **Federal Register** Citation].	Replaced ''West Virginia Department of Environmental Protection'' with ''Division of Air Quality.''
*	*	*	*	*

* * * * *

[FR Doc. 2018–05877 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 14–50, 09–182, 07–294 and 04–256; FCC 16–107]

2014 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved the request for the information collection requirements contained in the Commission's *2014 Quadrennial Regulatory Review Second Report and Order,* FCC 16–107. This document is consistent with the *Second Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of these rules.

DATES: 47 CFR 73.3526, published at 81 FR 76220, November 1, 2016, is effective on March 23, 2018.

FOR FURTHER INFORMATION CONTACT: Cathy Williams by email at *Cathy.Williams@fcc.gov* and telephone at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on March 12, 2018, OMB approved the request that the Commission submitted pertaining to the revisions to § 73.3526 contained in the Commission's Second Report and Order, FCC 16–107, published at 81 FR 76220, November 1, 2016. The OMB Control Number is 3060–0214. The changes to OMB control number 3060–0214 modified the burden hours and annual costs to the information collection. The Commission publishes this document as an announcement of the effective date of the rules.

Synopsis: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that OMB approved changes to information collection requirements contained in 47 CFR 73.3526. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0214.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0214.

OMB Approval Date: March 12, 2018.

OMB Expiration Date: March 31, 2021.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: None.

Respondents: Business or other for profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents and Responses: 24,013 respondents; 63,261 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority that covers this information collection is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,067,853 Hours.

Total Annual Cost: $27,168.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's website. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Nature and Extent of Confidentiality: Most of the documents comprising the public file consist of materials that are not of a confidential nature. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR 0.459.

In addition, the Commission has adopted provisions that permit respondents subject to the information collection requirement for Shared Service Agreements to redact confidential or proprietary information from their disclosures.

Needs and Uses: The information collection requirements included under this OMB Control Number 3060–0214, requires commercial broadcast stations to maintain for public inspection a file containing the material set forth in 47 CFR 73.3526.

This revised collection reflects the burden associated with the Shared Service Agreement disclosure requirements adopted in the *2014 Quadrennial Regulatory Review* (81 FR 76220, Nov. 1, 2016, FCC 16–107, rel. Aug. 25, 2016) and affirmed in the *2014 Quadrennial Regulatory Review Order on Reconsideration* (83 FR 733, Jan. 8, 2018, FCC 17–156, rel. Nov. 20, 2017). The collection requires commercial television stations to place in their online public inspection file a copy of every Shared Service Agreement for the station (with the substance of oral agreements reported in writing), regardless of whether the agreement involves commercial television stations in the same market or in different markets, with confidential or proprietary information redacted where appropriate. For purposes of this collection, a Shared Service Agreement is any agreement or series of agreements in which (1) a station provides any station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to a station that is not directly or indirectly under common de jure control permitted under the Commission's regulations; or (2) stations that are not directly or indirectly under common de jure control permitted under the Commission's regulations collaborate to provide or enable the provision of station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to one or more of the collaborating stations. For purposes of this collection, the term ''station'' includes the licensee, including any subsidiaries and affiliates, and any other individual or entity with an attributable interest in the station.

This information collection requirement will provide the Commission and the public with more comprehensive information about the prevalence and content of Shared Service Agreements between television stations, which will improve the Commission's and the public's ability to assess the potential impact of these agreements on the Commission's rules and policies.

The information collection requirements contained under 47 CFR

73.1212, 73.3527, 73.1943 and 76.1701 are still a part of the information collection and remain unchanged since last approved by OMB.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–05728 Filed 3–22–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 213, 242, 245, and 252

[Docket DARS–2018–0001]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective March 23, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Updates links to a website referenced in DFARS 211.275–2 and 252.211–7006.

2. Updates DFARS 213.106–2 and DFARS 252.213–7000 to reference the ''Supplier Performance Risk System (SPRS)'' in lieu of the ''Past Performance Information Retrieval System (PPIRS–SR)'' and to provide updates links to websites.

3. Updates organizational names in three places at DFARS 242.002.

4. Amends DFARS 245.103–74 by removing ''PGI 245.103–73'' and adding ''PGI 245.103–74'' in its place.

List of Subjects in 48 CFR Parts 211, 213, 242, 245, and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211, 213, 242, 245, and 252 are amended as follows:

■ 1. The authority citations for 48 CFR parts 211, 213, 242, 245, and 252 continue to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 211—DESCRIBING AGENCY NEEDS

211.275–2 [Amended]

■ 2. Amend section 211.275–2(a)(2) introductory text by removing ''*http://www.acq.osd.mil/log/sci/RFID_ship-to-locations.html*'' and adding ''*https://www.acq.osd.mil/log/sci/RFID_ship-to-locations.html*'' in its place.

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

213.106–2 [Amended]

■ 3. Amend section 213.106–2 by—

■ a. In paragraph (b)(i)(A)—

■ i. Removing ''Past Performance Information Retrieval System (PPIRS–SR)'' and adding ''Supplier Performance Risk System (SPRS)'' in its place;

■ ii. Removing ''PPIRS–SR'' and adding ''SPRS'' wherever it appears in the second sentence; and

■ iii. Removing ''*www.ppirs.gov*'' and adding ''*https://www.ppirssrng.csd.disa.mil*'' in its place; and

■ b. In paragraphs (b)(i)(B) and (b)(i)(C), removing ''PPIRS–SR'' and adding ''SPRS'' in both places.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 4. Amend section 242.002 by—

■ a. Revising paragraph (b)(i)(C);

■ b. In paragraph (S–70)(ii), removing ''Supply and Services Canada (SSC)'' and adding ''PWGSC, operating as PSPC,'' in its place; and

■ c. In paragraph (S–70)(iii), removing ''SSC'' and adding ''PSPC'' in its place.

The revision reads as follows:

242.002 Interagency agreements.

(b)(i) * * *

(C) Quality assurance requests performed for the Canadian Department of National Defence and pricing services performed for Public Works and Government Services Canada (PWGSC), operating as Public Services and Procurment Canada (PSPC).

* * * * *

PART 245—GOVERNMENT PROPERTY

245.103–74 [Amended]

■ 5. Amend section 245.103–74 by removing ''PGI 245.103–73'' and adding ''PGI 245.103–74'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7006 [Amended]

■ 6. Amend section 252.211–7006 by—

■ a. Removing the clause date ''(DEC 2017)'' and adding ''(MAR 2018)'' in its place;

■ b. In paragraph (b)(1)(ii) introductory text, removing ''*http://www.acq.osd.mil/log/sci/RFID_ship-to-locations.html*'' and adding ''*https://www.acq.osd.mil/log/sci/RFID_ship-to-locations.html*'' in its place.

252.213–7000 [Amended]

■ 7. Amend section 252.213–7000 by—

■ a. Revising the section heading.

■ b. In the clause title, removing ''Past Performance Information Retrieval System—Statistical Reporting'' and adding ''Supplier Performance Risk System'' in its place;

■ c. Removing the clause date ''(JUN 2015)'' and adding ''(MAR 2018)'' in its place;

■ d. In paragraph (a)—

■ i. Removing ''Past Performance Information Retrieval System-Statistical Reporting (PPIRS–SR)'' and adding ''Supplier Performance Risk System (SPSR)'' in its place; and

■ ii. Removing ''*http://www.ppirs.gov/*'' and adding ''*https://www.ppirssrng.csd.disa.mil/*'' in its place;

■ e. In paragraphs (b) and (c), removing ''PPIRS–SR'' and adding ''SPRS'' wherever it appears; and

■ f. In paragraph (d)—

■ i. Removing ''PPIRS–SR'' and adding ''SPRS'' wherever it appears;

■ ii. Removing ''*https://www.ppirs.gov/pdf/PPIRS-SR_UserMan.pdf*'' and adding ''*https://www.ppirssrng.csd.disa.mil/pdf/PPIRS-SR_UserMan.pdf*'' in its place; and

■ iii. Removing ''*https://www.ppirs.gov/pdf/PPIRS-SR_Data EvaluationCriteria.pdf*'' and adding ''*https://www.ppirssrng.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf*'' in its place.

The revision reads as follows:

252.213–7000 Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations.

* * * * *

[FR Doc. 2018–05938 Filed 3–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219 and Appendix I to Chapter 2

[Docket DARS–2016–0033]

RIN 0750–AJ05

Defense Federal Acquisition Regulation Supplement: Amendment to Mentor-Protégé Program (DFARS Case 2016–D011)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 that provides amendments to the DoD Pilot Mentor-Protégé Program.

DATES: Effective March 23, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 81 FR 65610 on September 23, 2016, to propose revisions to the DFARS to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92). Section 861 provides several amendments to the DoD Pilot Mentor-Protégé Program (''the Program''), including new reporting requirements for mentor firms to provide information to DoD's Office of Small Business Programs to support decisions regarding continuation of particular mentor-protégé agreements. In addition, section 861 adds new eligibility criteria; adds limitations on a protégé firm's participation in the Program; adds new elements to mentor-protégé agreements; extends the Program for three years to September 30, 2021; and amends requirements for business development assistance provided by a mentor firm and for reimbursement of fees assessed by the mentor firm.

II. Discussion and Analysis

One respondent submitted a public comment in response to the proposed rule. DoD reviewed the public comment in the development of the final rule.

A. Summary of Significant Changes From the Proposed Rule

There are no changes made to the final rule as a result of the public comment; however, one conforming change is made.

B. Analysis of Public Comments

Comment: The respondent requested that DoD revise the Program's eligibility criteria for protégé firms to include Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs). Allowing HBCUs and MIs to participate in the Program as protégés would provide the opportunity for teaming arrangements with DoD prime contractors, as well as good research opportunities.

Response: The eligibility criteria are based on the statutory authority for the Program (10 U.S.C. 2302 note), which provides that a ''disadvantaged small business concern'' meeting certain criteria may participate as a protégé in the Program. The statutory definition of ''disadvantaged small business concern'' does not include HBCUs or MIs. Therefore, the statute does not support the inclusion of HBCUs and MIs as protégés. However, HBCUs and MIs have a role in the Program as providers of assistance to protégé firms.

C. Other Changes From the Proposed Rule

A conforming change is made to the definition of ''nontraditional defense contractor'' in Appendix I, Paragraph I–101.2, to reflect the definition for this term that was established in the final rule ''Procurement of Commercial Items (DFARS Case 2016–D006)'' (see 83 FR 4431, dated January 31, 2018). Several Appendix I references are revised to reflect that, as of February 1, 2018, the Office of Small Business Programs is now organizationally located within DoD under Acquisition and Sustainment (A&S) in lieu of Acquisition Technology and Logistics (AT&L).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This final rule does not add any new provisions or clauses or impact any existing provisions or clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, which provides amendments to the DoD Pilot Mentor-Protégé Program (''the Program''). Specifically, section 861 provides new reporting requirements for mentor firms that will provide information to DoD's Office of Small Business Programs to support decisions regarding continuation of particular mentor-protégé agreements. In addition, section 861 adds new eligibility criteria; adds limitations on a protégé firm's participation in the Program; adds new elements to mentor-protégé agreements; extends the Program for three additional years; and amends requirements for business development assistance provided by a mentor firm and for reimbursement of fees assessed by the mentor firm. The objectives of this rule are to implement statutory amendments to the Program and to provide DoD's

Office of Small Business Programs with information to support decisions regarding continuation of particular mentor-protégé agreements.

There were no issues raised by the public in response to the initial regulatory flexibility analysis provided in the proposed rule.

The rule will apply to small entities that participate in the Program. There are currently 85 small entities participating in the Program as protégé firms and six small entities participating as mentors.

The rule imposes new reporting requirements on mentor firms, including mentors who are small businesses, regarding assistance they have provided to their protégé firms and the success this assistance has had. Although protégé firms are not required to submit these reports, the mentor firms will need to obtain supporting information from the protégé firms in order to ascertain the success of the assistance provided.

DoD has not identified any alternatives that are consistent with the stated objectives of the applicable statute.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 0704–0332, titled: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I.

List of Subjects in 48 CFR Part 219 and Appendix I to Chapter 2

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 and appendix I to chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR part 219 and appendix I to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.7100 [Amended]

■ 2. Amend section 219.7100 by—
■ a. Removing ''Section 831'' and adding ''section 831'' in its place; and
■ b. Adding the phrase '', as amended through November 25, 2015'' to the end of the first sentence.

■ 3. Amend section 219.7102 by—
■ a. Revising paragraph (a);
■ b. Removing paragraph (b); and
■ c. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.
■ d. In the newly redesignated paragraph (c)(2), removing ''Subpart'' and adding ''subpart'' in its place.

The revision reads as follows:

219.7102 General.

* * * * *

(a) Mentor firms and protégé firms that meet the criteria in Appendix I, section I–102.

* * * * *

219.7103–2 [Amended]

■ 4. Amend section 219.7103–2, in paragraph (e)(3), by removing ''219.7102(d)(1)(ii)'' and adding ''219.7102(c)(1)(ii)'' in its place.

219.7104 [Amended]

■ 5. Amend section 219.7104 by—
■ a. In paragraph (b)—
■ i. Removing ''Advance agreements are encouraged.'';
■ ii. Removing ''before October 1, 2018'' and adding ''not later than September 30, 2021'' in its place; and
■ b. In paragraph (d), removing ''before October 1, 2018'' and adding ''not later than September 30, 2021'' in its place.

■ 6. Amend Appendix I to Chapter 2 as follows:
■ a. In section I–100, revise paragraph (a).
■ b. Remove section I–101.1.
■ c. Redesignate section I–101.2 as section I–101.1.
■ d. Add new section I–101.2.
■ e. Revise section I–101.4.
■ f. Remove section I–101.5.
■ g. Redesignate section I–101.6 as section I–101.5.
■ h. In the newly redesignated section I–101.5, remove ''Section'' and add ''section'' in its place.
■ i. Remove section I–101.7.
■ j. Redesignate section I–101.8 as section I–101.6.
■ k. In the redesignated section I–101.6, remove ''Section'' and add ''section'' in its place.
■ l. In section I–102, revise paragraphs (a) through (d).
■ m. Amend section I–103 by—
■ i. In paragraph (a), removing ''September 30, 2015'' and adding ''September 30, 2018'' in its place; and
■ ii. In paragraph (b), removing ''September 30, 2018'' and adding ''September 30, 2021'' in its place;
■ n. Amend section I–104 by—
■ i. Revising paragraph (a);
■ ii. In paragraph (c), removing ''as defined in I–101.5'';
■ iii. In paragraph (d), removing ''I–107(f)'' and adding ''I–106(d)'' in its place; and
■ iv. Revising paragraph (e).
■ o. Amend section I–105 by—
■ i. Revising paragraph (b)(1);
■ ii. In paragraphs (b)(2) through (b)(6), removing ''company's'' and ''company'' and adding ''entity's'' and ''entity'', respectively in each place they appear;
■ iii. Revising paragraph (b)(7); and
■ iv. Revising paragraph (c);
■ p. Amend section I–106 by—
■ i. In paragraph (d)(1)(i), removing ''business development, '';
■ ii. In paragraph (d)(1)(iii), adding ''described in I–107(g)'' to the end of the sentence;
■ iii. In paragraph (d)(2), removing ''Award of subcontracts'' and adding ''Award of subcontracts to the protégé firm'' in its place;
■ iv. Removing paragraph (d)(6); and
■ v. Redesignating paragraph (d)(7) as (d)(6);
■ vi. In the newly redesignated paragraph (d)(6)(i), removing ''Section'' and adding ''section'' in its place.
■ q. Amend section I–107 by—
■ i. In the introductory text, removing ''will contain the following elements:'' and adding ''shall contain—'' in its place;
■ ii. Revising paragraph (b);
■ iii. In paragraph (d), removing ''I–102'' and adding ''I–102(a)'' in its place; and
■ iv. Revising paragraphs (e), (f), and (g).
■ r. Amend section I–109 by—
■ i. Redesignating paragraph (e) as paragraph (f); and
■ ii. Adding new paragraph (e).
■ s. Amend section I–110.1, in paragraph (a), by removing ''DoD Comprehensive Subcontracting Plan Test Program'' and adding ''DoD Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans'' in its place; and removing ''entity employing the severely disabled'' and adding ''entity employing severely disabled individuals'' in its place.
■ t. Amend section I–110.2, in paragraphs (a) introductory text, (b) introductory text, and (c) by removing ''OUSD(AT&L)'' and adding ''OUSD(A&S)'' in each place.
■ u. Amend section I–112.1 by—
■ i. In the section heading, removing ''SF 294s'' and adding ''Standard Forms 294'' in its place; and
■ ii. In paragraph (b), removing ''SDB'' and adding ''applicable'' in its place; and removing ''I–101.3 or I–101.5'' and adding ''I–102(b)'' in its place.
■ v. Revise section I–112.2.

The revisions and additions read as follows:

Appendix I to Chapter 2—Policy and Procedures for the DOD Pilot Mentor Protégé Program

I–100 Purpose.

(a) This Appendix I to 48 CFR chapter 2 implements the Pilot Mentor-Protégé Program (hereafter referred to as the ''Program'') established under section 831 of Public Law 101–510, the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note), as amended through November 25, 2015. The purpose of the Program is to provide incentives to major DoD contractors to furnish eligible small business concerns with assistance designed to—

(1) Enhance the capabilities of eligible small business concerns to perform as subcontractors and suppliers under DoD contracts and other contracts and subcontracts; and

(2) Increase the participation of such business concerns as subcontractors and suppliers under DoD contracts, other Federal Government contracts, and commercial contracts.

* * * * *

I–101.2 Nontraditional Defense Contractor

An entity that is not currently performing and has not performed any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement (10 U.S.C. 2302(9)).

* * * * *

I–101.4 Severely Disabled Individual

An individual who is blind or severely disabled as defined in 41 U.S.C. 8501.

* * * * *

I–102 Participant Eligibility

(a) To be eligible to participate as a mentor, an entity must—

(1) Be eligible for the award of Federal contracts;

(2) Demonstrate that it—

(i) Is qualified to provide assistance that will contribute to the purpose of the Program;

(ii) Is of good financial health and character; and

(iii) Is not on a Federal list of debarred or suspended contractors; and

(3) Be capable of imparting value to a protégé firm because of experience gained as a DoD contractor or through knowledge of general business operations and Government contracting, as demonstrated by evidence that such entity—

(i) Received DoD contracts and subcontracts equal to or greater than $100 million during the previous fiscal year;

(ii) Is an other-than-small business, unless a waiver to the small business exception has been obtained from the Director, Small Business Programs (SBP), OUSD(A&S);

(iii) Is a prime contractor to DoD with an active subcontracting plan; or

(iv) Has graduated from the 8(a) Business Development Program and provides documentation of its ability to serve as a mentor.

(b) To be eligible to participate as a protégé, an entity must be—

(1) A small business concern;

(2) Eligible for the award of Federal contracts;

(3) Less than half the Small Business Administration (SBA) size standard for its primary North American Industry Classification System (NAICS) code;

(4) Not owned or managed by individuals or entities that directly or indirectly have stock options or convertible securities in the mentor firm; and

(5) At least one of the following:

(i) A qualified HUBZone small business concern.

(ii) A women-owned small business concern.

(iii) A service-disabled veteran-owned small business concern.

(iv) An entity owned and controlled by an Indian tribe.

(v) An entity owned and controlled by a Native Hawaiian organization.

(vi) An entity owned and controlled by socially and economically disadvantaged individuals.

(vii) A qualified organization employing severely disabled individuals.

(viii) A nontraditional defense contractor.

(ix) An entity that currently provides goods or services in the private sector that are critical to enhancing the capabilities of the defense supplier base and fulfilling key DoD needs.

(c) Mentor firms may rely in good faith on a written representation that the entity meets the requirements of paragraph (b) of this section, except that a mentor firm is required to confirm a protégé's status as a HUBZone small business concern (see FAR 19.703(d)).

(d) If at any time the SBA (or DoD in the case of entities employing severely disabled individuals) determines that a protégé is ineligible, assistance that the mentor firm furnishes to the protégé after the date of the determination may not be considered assistance furnished under the Program.

* * * * *

I–104 Selection of Protégé Firms

(a) Mentor firms will be solely responsible for selecting protégé firms that qualify under I–102(b). Mentor firms are encouraged to identify and select concerns that have not previously received significant prime contract awards from DoD or any other Federal agency.

* * * * *

(e) A protégé firm may not be a party to more than one DoD mentor-protégé agreement at a time, and may only participate in the Program during the 5-year period beginning on the date the protégé firm enters into its first mentor-protégé agreement.

I–105 Mentor Approval Process

* * * * *

(b) * * *

(1) A statement that the entity meets the requirements in I–102(a), specifying the criteria in I–102(a)(3) under which the entity is applying.

* * * * *

(7) The total dollar amount and percentage of subcontracts that the entity awarded to firms qualifying under I–102(b)(5)(ii) through (viii) during the 2 preceding fiscal years. (Show DoD subcontract awards separately.) If the entity was required to submit a Summary Subcontract Report (SSR) in the Electronic Subcontracting Reporting System, the request must include copies of the final reports for the 2 preceding fiscal years.

* * * * *

(c) A template of the mentor application is available at: *http://www.acq.osd.mil/osbp/sb/programs/mpp/resources.shtml*.

* * * * *

I–107 Elements of a Mentor-Protégé Agreement

* * * * *

(b) The NAICS code(s) that represent the contemplated supplies or services to be provided by the protégé firm to the mentor firm and a statement that, at the time the agreement is submitted for approval, the protégé firm does not exceed the size standard in I–102(b)(3);

* * * * *

(e) Assurances that—

(1) The mentor firm does not share, directly or indirectly, with the protégé firm ownership or management of the protégé firm;

(2) The mentor firm does not have an agreement, at the time the mentor firm enters into a mentor-protégé agreement, to merge with the protégé firm;

(3) The owners and managers of the mentor firm are not the parent, child, spouse, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin of an owner or manager of the protégé firm;

(4) The mentor firm has not, during the 2-year period before entering into a mentor-protégé agreement, employed any officer, director, principal stock holder, managing member, or key employee of the protégé firm;

(5) The mentor firm has not engaged in a joint venture with the protégé firm during the 2-year period before entering into a mentor-protégé agreement, unless such joint venture was approved by SBA prior to making any offer on a contract;

(6) The mentor firm is not, directly or indirectly, the primary party providing contracts to the protégé firm, as measured by the dollar value of the contracts; and

(7) The SBA has not made a determination of affiliation or control;

(f) A preliminary assessment of the developmental needs of the protégé firm;

(g) A developmental program for the protégé firm including—

(1) The type of assistance the mentor will provide to the protégé and how that assistance will—

(i) Increase the protégé's ability to participate in DoD, Federal, and/or commercial contracts and subcontracts; and

(ii) Increase small business subcontracting opportunities in industry categories where eligible protégés or other small business firms are not dominant in the company's vendor base;

(2) Factors to assess the protégé firm's developmental progress under the Program,

including specific milestones for providing each element of the identified assistance;

(3) A description of the quantitative and qualitative benefits to DoD from the agreement, if applicable; and

(4) Goals for additional awards for which the protégé firm can compete outside the Program;

* * * * *

I–109 Reimburseable Agreements

* * * * *

(e) DoD may not reimburse any fee to the mentor firm for services provided to the protégé firm pursuant to I–106(d)(6) or for business development expenses incurred by the mentor firm under a contract awarded to the mentor firm while participating in a joint venture with the protégé firm.

* * * * *

I–112.2 Program Specific Reporting Requirements

(a) Mentors must report on the progress made under active mentor-protégé agreements semiannually for the periods ending March 31st and September 30th throughout the Program participation term of the agreement. The September 30th report must address the entire fiscal year.

(1) Reports are due 30 days after the close of each reporting period.

(2) Each report must include the following data on performance under the mentor-protégé agreement:

(i) Dollars obligated (for reimbursable agreements).

(ii) Expenditures.

(iii) Dollars credited, if any, toward applicable subcontracting goals as a result of developmental assistance provided to the protégé and a copy of the ISR or SF 294 and/or SSR for each contract where developmental assistance was credited.

(iv) Any new awards of subcontracts on a competitive or noncompetitive basis to the protégé firm under DoD contracts or other contracts, including the value of such subcontracts.

(v) All technical or management assistance provided by mentor firm personnel for the purposes described in I–106(d).

(vi) Any extensions, increases in the scope of work, or additional payments not previously reported for prior awards of subcontracts on a competitive or noncompetitive basis to the protégé firm under DoD contracts or other contracts, including the value of such subcontracts.

(vii) The amount of any payment of progress payments or advance payments made to the protégé firm for performance under any subcontract made under the Program.

(viii) Any loans made by the mentor firm to the protégé firm.

(ix) All Federal contracts awarded to the mentor firm and the protégé firm as a joint venture, designating whether the award was a restricted competition or a full and open competition.

(x) Any assistance obtained by the mentor firm for the protégé firm from the entities listed at I–106(d)(6).

(xi) Whether there have been any changes to the terms of the mentor-protégé agreement.

(xii) A narrative describing the following:

(A) The success assistance provided under I–106(d) has had in addressing the developmental needs of the protégé firm.

(B) The impact on DoD contracts.

(C) Any problems encountered.

(D) Any milestones achieved in the protégé firm's developmental program.

(E) Impact of the agreement in terms of capabilities enhanced, certifications received, and technology transferred.

(3) In accordance with section 861, paragraph (b)(2), of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), the reporting requirements specified in paragraphs (a)(2)(iv) through (a)(2)(xii)(C) of this section apply retroactively to mentor-protégé agreements that were in effect on November 25, 2015. Mentors must submit reports as described in paragraph (a) of this section.

(4) A recommended reporting format and guidance for its submission are available at: *http://www.acq.osd.mil/osbp/sb/programs/mpp/resources.shtml.*

(b) The protégé must provide data, annually by October 31st, on the progress made during the prior fiscal year by the protégé in employment, revenues, and participation in DoD contracts during—

(1) Each fiscal year of the Program participation term; and

(2) Each of the 2 fiscal years following the expiration of the Program participation term.

(c) The protégé report required by paragraph (b) of this section may be provided as part of the mentor report for the period ending September 30th required by paragraph (a) of this section.

(d) Progress reports must be submitted—

(1) For credit agreements, to the cognizant Component Director, SBP, that approved the agreement, and the mentor's cognizant DCMA administrative contracting officer; and

(2) For reimbursable agreements, to the cognizant Component Director, SBP, the contracting officer, the DCMA administrative contracting officer, and the program manager.

* * * * *

[FR Doc. 2018–05937 Filed 3–22–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

Hours of Service; Electronic Logging Devices; Limited 90-Day Waiver for the Transportation of Agricultural Commodities

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notification; grant of waiver.

SUMMARY: FMCSA grants a limited 90-day waiver from the Federal hours-of-service (HOS) regulations pertaining to electronic logging devices (ELDs) for the transportation of agricultural commodities as defined in the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency has determined that the waiver is in the public interest and will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, based on the terms and conditions imposed. The waiver provides the Agency additional time to complete its analysis of the public responses to its December 20, 2017, notice of proposed regulatory guidance to clarify the applicability of the ''Agricultural commodity'' exception to the hours-of-service regulations and issue final guidance which in turn, would have an impact on which drivers transporting agricultural commodities are required to use ELDs, and the public responses to its October 31, 2017, document announcing receipt of the NPPC's application for an exemption from the ELD requirements and to issue a decision whether to grant NPPC's request for longer-term relief from the ELD rule. The Agency has determined through its preliminary analysis of the public comments submitted to the public dockets that the issues raised by transporters of agricultural commodities are more complex than those raised by other segments of the industry seeking relief from the ELD requirements and that it is appropriate to take additional time to bring these matters to closure.

DATES: This waiver is applicable beginning March 18, 2018, and expires on June 18, 2018.

FOR FURTHER INFORMATION CONTACT: Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590.

Email: MCPSD@dot.gov. Phone: (614) 942–6477.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) provides the Secretary of Transportation (the Secretary) the authority to grant waivers from any of the FMCSRs issued under Chapter 313 of Title 49 of the United States Code or 49 U.S.C. 31136, to a person(s) seeking regulatory relief. (49 U.S.C. 31136(e), 31315(a)). The Secretary must make a determination that the waiver is in the public interest, and that it is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. Individual waivers may be granted only

for a specific unique, non-emergency event, for a period up to three months. TEA–21 authorizes the Secretary to grant waivers without requesting public comment, and without providing public notice.

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(e) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

Background

The FMCSA received an application for an exemption and waiver from the NPPC on behalf of eight organizations that represent transporters of livestock and other agricultural commodities. Notice of the request for exemption from the requirement that a motor carrier require each of its drivers to use an electronic logging device (ELD) no later than December 18, 2017, to record the driver's hours-of-service (HOS), was published in the **Federal Register** on October 31, 2017 (82 FR 50358). Comments to that document were due by November 30, 2017 (*www.regulations.gov,* Docket FMCSA–2017–0297). The Agency received 997 responses to the document announcing receipt of the NPPC exemption application.

FMCSA also received from the Agricultural Retailers Association (ARA) an exemption, waiver, and petition document dated October 25, 2017, requesting that transporters of agricultural commodities and farm supplies for agricultural purposes not be required to use ELDs during an exemption period. Notice of that request was published in the **Federal Register** on December 28, 2017 (82 FR 61531). Comments to that document were due by January 29, 2018 (*www.regulations.gov,* Docket FMCSA–2017–0336). The Agency received 115 responses to the document announcing receipt of the ARA exemption application.

In addition to NPPC's and ARA's applications, FMCSA received numerous public comments in response to the Agency's December 20, 2017 (82 FR 60360), notice of proposed regulatory guidance concerning the applicability of the HOS requirements to drivers transporting agricultural commodities. Comments were due by January 19, 2018, but the comment period was subsequently extended to February 20, 2018, in response to a request by the American Trucking Associations. The Agency received 565 responses to that document.

Safety Determination

Although FMCSA does not have an estimate of the number of carriers and drivers that would be covered by this waiver, the Agency believes the population represents a relatively small percentage of the carriers and drivers subject to its oversight and, more specifically, of those subject to the ELD requirements. This belief is based primarily on an analysis the Agency conducted in 2013 when it evaluated a request for a waiver from the 30-minute rest break requirement for the transportation of livestock (July 11, 2013, 78 FR 41716).

FMCSA reviewed its Motor Carrier Management Information System (MCMIS) to determine this information at that time. MCMIS includes the information reported to the Agency by carriers submitting the Motor Carrier Identification Report (FMCSA Form MCS–150), required by 49 CFR 390.19. As of July 3, 2013, MCMIS listed 64,892 motor carriers that identified livestock as a type (though not necessarily the only type) of cargo they transported. These carriers operated 187,606 vehicles and employed 242,676 drivers. And 126,471 of those drivers operated within a 100 air-mile radius of their work-reporting location—a fact that is important because the existing statutory exemptions provide relief from the HOS requirements for these drivers. Therefore, the Agency concluded at that time, the 2013 livestock waiver would not have been applicable to them, leaving fewer than 116,205 drivers likely to utilize this relief from the 30-minute rest break provision.

The Agency explained in its document granting the waiver that section 345 of the National Highway System Designation Act of 1995 (the NHS Act) (Pub. L. 104–69, 109 Stat. 613), enacted on November 28, 1995, implemented by 49 CFR 395.1(k), provided relief from the HOS requirements for drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if ''the transportation is limited to an area within a 100 air-mile radius from the source of the commodities or the distribution point for the farm supplies and is during the planting and harvesting seasons within such State, as determined by the State.''

Section 32101(d) of the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, 126 Stat. 405), enacted on July 6, 2012, expanded that 100 air-mile radius provided by the NHS Act to 150 air miles; FMCSA implemented the provision with a final rule published on March 14, 2013 (78 FR 16189).

In addition, section 32934 of MAP–21 provides statutory exemptions from most of the FMCSRs, including those pertaining to HOS, the commercial driver's license and driver qualification requirements, for drivers of ''covered farm vehicles'' (CFVs), a term defined in detail by MAP–21. Among other things, CFV drivers must be owners or operators of farms or ranches, or their employees or family members; for-hire motor carriers are not eligible for the exemptions provided by section 32934. These exemptions are explained in the March 14, 2013, final rule mentioned above.

While the 2013 analysis was targeted at estimating the population of carriers and drivers that would be covered by a livestock waiver from the 30-minute rest break requirement, the Agency believes a similar analysis looking at agricultural commodities in general would also show that the population likely to need relief from the ELD requirement during the 90-day waiver remains a small fraction of the motor carrier and driver populations subject to the ELD rule. Because of the urgency with which FMCSA must issue decisions on the matters discussed above, the Agency was unable to complete an up-to-date analysis of its MCMIS data before the March 18, 2018, expiration of the 2017 waiver for the transportation of agricultural commodities. However, the Agency will complete that analysis of the MCMIS data within 30 days and place a copy in the docket referenced at the beginning of this notification.

In addition to the 2013 data analysis, the Agency considered information reviewed in reaching a decision to grant a limited 90-day waiver from the HOS requirements for the distribution of an agricultural supply, anhydrous ammonia. The analysis was discussed in depth in an October 6, 2010, **Federal Register** document (75 FR 61626), granting the waiver, and in the Agency's 2017 document granting a limited 90-day waiver from the ELD requirements for motor carriers transporting agricultural commodities. The Agency continues to believe the study results are relevant to the discussion of temporary regulatory relief from the ELD requirements for the transportation of agricultural commodities.

Although this study was conducted in 2010 and relied upon data from 2005 through 2008, FMCSA has no reason to believe that the conclusions would be different if updated using more recent data. Although the 2010 studies did not focus on benefits achieved by use of ELDS, given the limited population of

motor carriers affected by the waiver and the brief period of time a waiver is in effect, FMCSA believes that the level of safety maintained by transporters of agricultural commodities will be equivalent to the safety of operations that would be obtained absent the granting of a waiver.

FMCSA Determination

Considering the above studies, the ongoing review of the public comments submitted in response to the proposed regulatory guidance on the agricultural commodities exception to the HOS rules, and the pending exemption requests from NPPC and ARA, FMCSA has determined that it is in the public interest to provide a limited waiver from the use of ELDs for interstate motor carriers engaged in the transportation of agricultural commodities as defined in 49 CFR 395.2. The Agency believes this matter requires a decision based on the best available data, albeit dated, rather than delaying a decision until a new study can be conducted. This waiver will allow FMCSA time to evaluate the HOS exception applicable to the transport of agricultural commodities and to review the concerns unique to the agricultural industry. FMCSA grants the waiver to all motor carriers transporting agricultural commodities.

Terms and Conditions of the Waiver

(1) *Duration of the waiver.* This waiver is applicable March 18, 2018, through June 18, 2018.

(2) Motor carriers transporting agricultural commodities under the provisions of 49 CFR 395.1(k)(1), are exempt from the ELD requirements in 49 CFR 395.8(a) during the period of this waiver, regardless of the distance traveled.

(3) Carriers operating under this waiver must comply with all other applicable requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 390 through 399), including the preparation of records of duty status (RODS) for operations which are currently considered to be subject to the HOS rules and the record retention requirements associated with those RODS and supporting documents.

(4) Motor carriers operating under this waiver must have a ''satisfactory'' safety rating from FMCSA or be unrated; motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from taking advantage of the waiver.

(5) Drivers operating under this waiver must carry a copy of this **Federal Register** notification and present it to motor carrier safety enforcement officials upon request.

(6) *Crash Notification to FMCSA*

Carriers operating under this waiver must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's drivers operating under the terms of this waiver. The notification must include the following information:

(a) Identity of Waiver: ''AG''

(b) Date of the accident,

(c) City or town, and State, in which the accident occurred, or closest to the accident scene,

(d) Driver's name and license number,

(e) Co-driver's name and license number (if applicable),

(f) Vehicle number and State license number,

(g) Number of individuals suffering physical injury,

(h) Number of fatalities,

(i) The police-reported cause of the accident,

(j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

(k) The total driving time and total on-duty time period prior to the accident.

Accident notifications must be emailed to *MCPSD@dot.gov.*

Safety Considerations

Considering the limited period of this waiver and that it does not alter any of the HOS regulations other than the method of recording HOS, and the Agency's previous review of data concerning the safety performance of motor carriers engaged in the transportation of agricultural commodities, the Agency has determined that the waiver from the ELD requirements for 90 days is likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation.

FMCSA expects that any drivers and their employing motor carrier operating under the terms and conditions of the exemption will maintain their safety record. Should any safety problems be discovered, however, FMCSA will take all steps necessary to protect the public interest. Use of this waiver is voluntary, and FMCSA will immediately revoke the waiver for any interstate driver or motor carrier for failure to comply with the terms and conditions of the waiver.

Preemption of State Requirements

Consistent with 49 U.S.C. 31315(d), this waiver preempts inconsistent State or local requirements applicable to interstate commerce.

Issued on: March 16, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–05865 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 83, No. 57
Friday, March 23, 2018

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

Proposed Establishment of Class E Airspace; Washington Island, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: Comments must be received on or before May 7, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2018–0018; Airspace Docket No. 17–AGL–20, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0018; Airspace Docket No. 17–AGL–20.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace area extending upward from 700 feet above the surface to within a 6.0-mile radius of Washington Island Airport, Washington Island, WI, to accommodate new standard instrument approach procedures. This action would enhance safety and the management of IFR operations at the airport.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AGL WI E5 Washington Island, WI [New]

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

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

Issued in Fort Worth, Texas, on March 15, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–05887 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2017–0096; FXFR13350700640–189–FF07J00000; FBMS #4500117020]

RIN 1018–BC06

Subsistence Management Regulations for Public Lands in Alaska—2019–20 and 2020–21 Subsistence Taking of Fish and Shellfish Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for fish and shellfish seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2019–2020 and 2020–2021 regulatory years. The Federal Subsistence Board (Board) is on a schedule of completing the process of revising subsistence taking of fish and shellfish regulations in odd-numbered years and subsistence taking of wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle; in addition, during the rulemaking cycle for the fish and shellfish regulations, the Board will accept proposals for nonrural determinations. When final, the resulting rulemaking will replace the existing subsistence fish and shellfish taking regulations. This proposed rule could also amend the general regulations on subsistence taking of fish and wildlife.

DATES:

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by April 23, 2018.

Public meetings: The Federal Subsistence Regional Advisory Councils held public meetings to receive comments and make proposals to change this proposed rule February 13 through March 14, 2018, and will hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 21 and November 6, 2018. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2019. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

ADDRESSES:

Public meetings: The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings are held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2017–0096, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo

Matuskowitz, Anchorage, AK 99503–6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Gene Peltola, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (hereafter referred to as ''the Secretaries'') jointly implement the Federal Subsistence Management Program (hereafter referred to as ''the Program''). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only Alaska residents of areas identified as rural are eligible to participate in the Program. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations on May 29, 1992 (57 FR 22940). Program officials have subsequently amended these regulations a number of times.

Because the Program is a joint effort between the Departments of the Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): The Agriculture regulations are at title 36, ''Parks, Forests, and Public Property,'' and the Interior regulations are at title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. Consequently, to indicate that identical changes are proposed for regulations in both titles 36 and 50, in this document we will present references to specific sections of the CFR as shown in the following example: § ____.24.

The Program regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife. Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D. Subpart C sets forth important Board determinations regarding program eligibility, *i.e.,* which areas of Alaska are considered rural and which species are harvested in those areas as part of a ''customary and traditional use'' for subsistence purposes. Subpart D sets forth specific harvest seasons and limits.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Advisory Council members represent varied geographical, cultural, and user interests within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Federal Subsistence Regional Advisory Councils will have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Federal Subsistence Regional Advisory Councils, held public meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Wrangell	February 13, 2018.
Region 2—Southcentral Regional Council	Anchorage	March 6, 2018.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	February 22, 2018.
Region 4—Bristol Bay Regional Council	Naknek	March 13, 2018.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	March 14, 2018.
Region 6—Western Interior Regional Council	Anchorage	February 20, 2018.
Region 7—Seward Peninsula Regional Council	Nome	March 5, 2018.
Region 8—Northwest Arctic Regional Council	Kotzebue	February 28, 2018.
Region 9—Eastern Interior Regional Council	Fairbanks	February 28, 2018.
Region 10—North Slope Regional Council	Utqigvik	February 14, 2018.

During April 2018, the written proposals to change the regulations at subpart D, take of fish and shellfish, and subpart C, customary and traditional use and nonrural determinations, will be compiled and distributed for public review. Written public comments will be accepted on the distributed proposals during a second 30-day public comment period, which is presently scheduled to end June 1, 2018.

The Board, through the Regional Advisory Councils, will hold a second series of public meetings in August through November 2018, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Sitka	October 2, 2018.
Region 2—Southcentral Regional Council	TBD	October 29, 2018.
Region 3—Kodiak/Aleutians Regional Council	Sand Point	September 18, 2018.
Region 4—Bristol Bay Regional Council	Dillingham	November 6, 2018.

Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	September 27, 2018.
Region 6—Western Interior Regional Council	Galena	October 10, 2018.
Region 7—Seward Peninsula Regional Council	Nome	October 23, 2018.
Region 8—Northwest Arctic Regional Council	Anchorage	October 24, 2018.
Region 9—Eastern Interior Regional Council	Tanana	October 9, 2018.
Region 10—North Slope Regional Council	Point Hope	August 21, 2018.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings. Locations and dates may change based on weather or local circumstances. The amount of work on each Regional Advisory Council's agenda determines the length of each Regional Advisory Council meeting.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in January 2019. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, fish and shellfish harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

c. A description of the regulatory change(s) desired;

d. A statement explaining why each change is necessary;

e. Proposed wording changes; and

f. Any additional information that you believe will help the Board in evaluating the proposed change.

Proposals to the Board to modify the nonrural determinations must include the following information:

a. Full name and mailing address of the proponent;

b. A statement describing the proposed nonrural determination action requested;

c. A detailed description of the community or area under consideration, including any current boundaries, borders, or distinguishing landmarks, so as to identify which Alaska residents would be affected by the change in nonrural status;

d. Rationale and supporting evidence (law, policy, factors, or guidance) for the Board to consider in determining the nonrural status of a community or area;

e. A detailed statement of the facts that illustrate that the community or area is nonrural or rural using the rationale and supporting evidence stated above; and

f. Any additional information supporting the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in §§ ____.23, ____.24, subpart C (the regulations governing nonrural determinations and customary and traditional use), and §§ ____.25, ____.27, and ____.28 of subpart D (the general and specific regulations governing the subsistence take of fish and shellfish). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once a proposal is distributed for public review, no additional changes may be made as part of the original submission. During the January 2019 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Regional Advisory Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Regional Advisory Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a recommendation has not been made, by a Regional Advisory Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R7–SM–2017–0096, or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Caron McKee, 907–786–3880, *subsistence@fws.gov,* or 800–877–8339 (TTY), seven business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence

fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

Developing the 2019–20 and 2020–21 Fish and Shellfish Seasons and Harvest Limit Proposed Regulations

In titles 36 and 50 of the CFR, the subparts C and D regulations are subject to periodic review and revision. The Board currently completes the process of revising subsistence take of fish and shellfish regulations in odd-numbered years and wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle, and nonrural determinations during the fish and shellfish cycle.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. Consequently, in this rulemaking action pertaining to fish and shellfish, the Board will consider proposals to revise the regulations in any of the following sections of titles 36 and 50 of the CFR:

- § ____.23: Rural determinations;
- § ____.24: Customary and traditional use determinations;
- § ____.25: General provisions governing the subsistence take of wildlife, fish, and shellfish;
- § ____.27: Specific provisions governing the subsistence take of fish; and
- § ____.28: Specific provisions governing the subsistence take of shellfish.

As such, the text of the proposed 2019–21 subparts C and D subsistence regulations in titles 36 and 50 is the combined text of previously issued rules that revised these sections of the regulations. The following **Federal Register** citations show when these CFR sections were last revised. Therefore, the regulations established by these four final rules constitute the text of this proposed rule:

The text of the proposed amendments to 36 CFR 242.23 and 50 CFR 100.23 is the final rule for Rural Determinations, Nonrural List (80 FR 68245; November 4, 2015).

The text of the proposed amendments to 36 CFR 242.24 and 242.27 and 50 CFR 100.24 and 100.27 is the final rule for the 2017–2019 regulatory period for fish (83 FR 3079; January 23, 2018).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2015–17 regulatory period for fish (80 FR 28192; May 18, 2015).

The text of the proposed amendments to 36 CFR 242.28 and 50 CFR 100.28 is the final rule for the 2011–13 regulatory period for fish and shellfish (76 FR 12564; March 8, 2011).

These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document and a final rule is published.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the regulations will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act (PRA)

This proposed rule does not contain any new collections of information that require OMB approval under the PRA (44 U.S.C. 3501 *et seq.*) OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR 242 and 50 CFR 100, and assigned OMB Control Number 1018–0075, which expires June 20, 2019. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed 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 proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule. Consultations with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, will provide a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted this proposed rule under the guidance of Gene Peltola of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA—Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2019–20 and 2020–21 regulatory years.

The text of the proposed amendments to 36 CFR 242.23 and 50 CFR 100.23 is the final rule for rural determinations that set forth the nonrural list (80 FR 68245; November 4, 2015).

The text of the proposed amendments to 36 CFR 242.24 and 242.27 and 50 CFR 100.24 and 100.27 is the final rule for the 2017–2019 regulatory period for fish (83 FR 3079; January 23, 2018).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2015–17 regulatory period for fish (80 FR 28192; May 18, 2015).

The text of the proposed amendments to 36 CFR 242.28 and 50 CFR 100.28 is the final rule for the 2011–13 regulatory period for fish and shellfish (76 FR 12564; March 8, 2011).

Dated: December 12, 2017.

Eugene R. Peltola, Jr.

Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

Editorial Note: The Office of the Federal Register received this document on March 19, 2018.

[FR Doc. 2018–05848 Filed 3–22–18; 8:45 am]

BILLING CODE 3411–15–P; 4333–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0120; FRL–9975–81—Region 9]

Approval of California Air Plan Revisions; Butte County Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Butte County Air Quality Management District (BCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution. We are proposing action on a local rule under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by April 23, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0120 at *http://www.regulations.gov,* or via email to T. Khoi Nguyen, at *nguyen.thien@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: T. Khoi Nguyen, EPA Region IX, (415) 947–4120, *nguyen.thien@epa.gov*.

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

Table of Contents

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was amended by the BCAQMD and submitted by the California Air Resources Board (CARB), which is the governor's designee for California SIP submittals.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Amended	Submitted
BCAQMD	432	Federal New Source Review	3/23/17	6/12/17

On December 12, 2017, the submittal for the BCAQMD was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

On December 22, 2016, the EPA finalized a limited approval and limited disapproval of Rule 432. 81 FR 93820.

C. What is the purpose of the submitted rule?

Section 110(a) of the CAA requires states to submit regulations that include a pre-construction permit program for certain new or modified stationary sources of pollutants, including a permit program as required by Part D of Title I of the CAA.

The purpose of District Rule 432 is to implement a federal preconstruction permit program for new and modified minor sources of regulated NSR pollutants, and new and modified major sources of regulated NSR pollutants for which the area is designated nonattainment. BCAQMD is currently designated as a nonattainment area for the 2008 8-hr ozone and 2006 24-hr $PM_{2.5}$ NAAQS. The rule revision further corrects a deficiency in which the EPA previously finalized a limited disapproval of Rule 432 because we determined that the rule does not fully satisfy 40 CFR 51.165(a)(13)'s requirements for regulation of $PM_{2.5}$ precursors as it pertains to ammonia. We present our evaluation under the CAA and the EPA's regulations of the revised NSR rule submitted by CARB, as identified in Table 1, and provide our reasoning in general terms below and a more detailed analysis in our technical support document (TSD), which is available in the docket for the proposed rulemaking.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

The submitted rule must meet the CAA's general requirements for SIPs and SIP revisions in CAA sections 110(a)(2), 110(l), and 193 as well as the applicable requirements contained in part D of title I of the Act (sections 172 and 173) for a nonattainment NSR permit program. In addition, the submitted rule must contain the applicable regulatory provisions of 40 CFR 51.160–51.165 and 40 CFR 51.307.

Among other things, section 110 of the Act requires that SIP rules be enforceable and provides that the EPA

may not approve a SIP revision if it would interfere with any applicable requirements concerning attainment and reasonable further progress or any other requirement of the CAA. In addition, section 110(a)(2) and section 110(l) of the Act require that each SIP or revision to a SIP submitted by a state must be adopted after reasonable notice and public hearing.

Section 110(a)(2)(c) of the Act requires each SIP to include a permit program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate commonly referred to as the ''minor NSR'' or ''general NSR'' permit program. These NSR program regulations impose requirements for SIP approval of state and local programs that are more general in nature as compared to the specific statutory and regulatory requirements for nonattainment NSR permitting programs under Part D of title I of the Act.

Part D of title I of the Act contains the general requirements for areas designated nonattainment for a NAAQS (section 172), including preconstruction permit requirements for new major sources and major modifications proposing to construct in nonattainment areas (section 173).

Additionally, 40 CFR 51.165 sets forth the EPA's regulatory requirements for SIP-approval of a nonattainment NSR permit program.

The protection of visibility requirements that apply to New Source Review programs are contained in 40 CFR 51.307. This provision requires that certain actions be taken in consultation with the local Federal Land Manager if a new major source or major modification may have an impact on visibility in any mandatory Class I Federal Area.

Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act, which only applies in nonattainment areas, prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

The EPA has reviewed the submitted rule in accordance with the rule evaluation criteria described above. With respect to procedures, based on our review of the public process documentation included in the June 12, 2017 submittal, we are proposing to approve the submitted rule in part because we have determined that the BCAQMD has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to adoption and submittal of this rule, in accordance with the requirements of CAA sections 110(a)(2) and 110(l). The amendment of Rule 432 now also includes ammonia as a potential precursor to $PM_{2.5}$, thus resolving the limited disapproval issue from the December 2016 action. Our TSD, which can be found in the docket for this rule, contains a more detailed discussion of the approval criteria.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until April 23, 2018. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally-enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the BCAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New Source Review, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 9, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–06025 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2406–P]

RIN 0938–AT41

Medicaid Program; Methods for Assuring Access to Covered Medicaid Services—Exemptions for States With High Managed Care Penetration Rates and Rate Reduction Threshold

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the process for states to document whether Medicaid payments in fee-for-service systems are sufficient to enlist providers to assure beneficiary access to covered care and services consistent with the statute. States have raised concerns over the administrative burden associated with the current requirements, particularly for states with high rates of Medicaid managed care enrollment. This proposed rule would provide burden relief and address those concerns.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 22, 2018.

ADDRESSES: In commenting, please refer to file code CMS–2406–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2406–P, P.O. Box 8016, Baltimore, MD 21244–8016. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2406–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Jeremy Silanskis, (410) 786–1592, *Jeremy.Silanskis@cms.hhs.gov*.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that website to view public comments.

I. Executive Summary and Background

A. Executive Summary

1. Purpose

Current regulations at 42 CFR 447.203(b) require states to develop and submit to CMS an access monitoring review plan (AMRP) for Medicaid services provided through a fee-for-service (FFS) delivery system. The AMRP must be updated at least every 3 years and address the following categories of Medicaid services: Primary care services (including those provided by a physician, federally qualified health center (FQHC), clinic or dental care); physician specialist services (for example, cardiology, radiology, urology); behavioral health services (including mental health and substance use disorder); pre- and post-natal obstetric services (including labor and delivery); and home health. The AMRP must identify a data-driven process to review access to care and address: The extent to which beneficiary needs are fully met; the availability of care through enrolled providers; and changes in beneficiary service utilization. Additionally, when states reduce rates for other Medicaid services, they must add those services to the AMRP and monitor the effects of the rate reductions for 3 years. Section 447.204 requires states to undertake a public process and submit specific information regarding access to care when proposing to reduce or restructure Medicaid provider payment rates. This proposed rule would provide an exemption to the regulatory requirements in §§ 447.203(b)(1) through (6) and 447.204(a) through (c) for states with comprehensive, risk-based Medicaid managed care enrollment rates above 85 percent of the total covered population under a state's Medicaid program, including managed care comprehensive risk contracts under a state's section 1115 Medicaid demonstration. The proposed rule would also provide an exemption to the regulatory requirements in §§ 447.203(b)(6) and 447.204(a) through (c) for states that submit state plan amendments (SPAs) to reduce rates or restructure payments where the overall reduction is 4 percent or less of overall spending within the affected state plan service category for a single state fiscal year (SFY) and 6 percent or less over 2 consecutive SFYs. Additionally, the proposed rule would modify the requirements in § 447.204(b)(2) so that, for SPAs that reduce or restructure Medicaid payment rates, states would be required to submit to CMS an assurance that data indicates current access is consistent with

requirements of the Social Security Act (the Act) instead of an analysis anticipating the effects of a proposed change in payment rates or structure.

B. Background

Section 1902(a)(30)(A) of the Act requires states to ''assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.'' Until 2011, we had not defined through federal regulation a framework to guide states in meeting this statutory requirement and reviewed state proposals to reduce provider payment rates on a case-by-case basis. We historically relied on state certifications and available supporting information that reductions in Medicaid payments met the statutory standards.

In the November 2, 2015 **Federal Register** (80 FR 67576) we published the ''Methods for Assuring Access to Covered Medicaid Services'' final rule with comment period that outlined a data-driven process for states to document whether Medicaid payments are sufficient to enlist providers to assure beneficiary access to covered care and services consistent with section 1902(a)(30)(A) of the Act. The final rule with comment period included a new § 447.203(b)(1) through (8) and revisions to § 447.204. These regulations established that states must develop and submit to CMS an AMRP, that is updated at least every 3 years, for the following services: (1) Primary care (including those provided by a physician, FQHC, clinic or dental care); (2) physician specialist services (for example, cardiology, urology, radiology); (3) behavioral health services (including mental health and substance use disorder); (4) pre- and post-natal obstetric services, (including labor and delivery); (5) home health services; (6) any additional types of services for which a review is required under § 447.203(b)(6) because of a proposed payment rate reduction or restructuring; (7) additional types of services for which the state or CMS has received a significantly higher than usual volume of beneficiary, provider or other stakeholder access complaints for a geographic area; and (8) additional types of services selected by the state.

The AMRP must document the state's consideration of access to care in setting and adjusting payment methodologies for Medicaid services and in informing state policies affecting access to Medicaid services. The state must address, through data driven analysis: The extent to which beneficiary needs are fully met; the availability of care through enrolled providers; changes in beneficiary service utilization; the characteristics of the beneficiary population (including considerations for care, service and payment variations for pediatric and adult populations and for individuals with disabilities); and actual or estimated levels of provider payment available from other payers, including other public and private payers. Additionally, § 447.203(b)(6) requires a state to add services to its AMRP when reducing payment rates or restructuring provider payment for such Medicaid services in circumstances when the changes could result in diminished access, as well as to develop a plan to monitor the effects of the rate reduction or restructuring for at least 3 years.

Furthermore, under § 447.204(a) through (c), when proposing to reduce or restructure Medicaid payment rates, states must consider the data collected through the AMRP and undertake a public process that solicits input on the potential impact of proposed reduction or restructuring of Medicaid payment rates on beneficiary access to care. States must submit related analysis to CMS along with any proposed rate reduction or restructuring SPA, and we may disapprove such a proposed SPA that does not include documentation supporting compliance with the required AMRP review and public process.

In the November 2, 2015 final rule with comment period, we solicited comments on § 447.203(b)(5), concerning the access monitoring review plan timeframe. Specifically, we solicited comments on the scope of services that should be subject to ongoing review under the AMRP, the required elements of review, whether we should allow exemptions from certain requirements of the final rule based on state program characteristics (for example, high managed care enrollment), and the timeframe for submission. In response to the comments we received, in the April 12, 2016 **Federal Register** (81 FR 21479), we published the ''Deadline for Access Monitoring Review Plan Submissions'' final rule in which we extended the deadline for initial AMRP submissions to October 1, 2016. Although we received numerous comments on the issue of whether states with high managed care enrollment should be exempt from the requirements of the final rule, we did not include such an exemption in the April 12, 2016 final rule because we believed that further experience with the access monitoring review process was necessary to determine the appropriate circumstances for exemptions. We have considered the comments received in response to the November 2, 2015 final rule with comment period at (*https://www.regulations.gov/document?D=CMS-2011-0062-0188*) in the development of this proposed rule.

The initial AMRP submissions were due to us on October 1, 2016. We received AMRP submissions from all states, and the submissions are available on *Medicaid.gov* (*https://www.medicaid.gov/medicaid/access-to-care/review-plans/index.html*). During the initial year of implementation, a number of states expressed concern regarding the administrative burden associated with the requirements of § 447.203, particularly those states with a very high beneficiary enrollment in comprehensive, risk-based managed care and a limited number of beneficiaries receiving care through a fee-for-service delivery system. Based on our experience in reviewing the AMRPs and working with states with high beneficiary enrollment in comprehensive, risk-based managed care, we now believe we have sufficient experience to establish a threshold for such states to be exempt from meeting certain access monitoring review requirements, and are proposing additional modifications to the regulations to ease the administrative burden on states that are proposing certain payment rate reductions.

Although this proposed rule would establish such thresholds, states are still obligated by the statute to ensure Medicaid payment rates are sufficient to enlist enough providers to assure that beneficiary access to covered care and services is at least consistent with that of the general population in the same geographic area, particularly when reducing or restructuring Medicaid payment rates through SPAs. In lieu of the requirements set forth in § 447.203(b)(6), we are proposing that states that meet the high managed care enrollment exemption threshold under this proposed rule would be permitted to submit alternate information and analysis, as determined by the state, when proposing payment rate reductions, to support compliance with section 1902(a)(30)(A) of the Act.

Our implementation experience has also created questions about the benefit of requiring states to conduct a public process and access analysis for every change in Medicaid payment rates or structure that results in a reduction to provider payments, including those nominal rate reductions that are unlikely to result in diminished access.

We have worked with a number of states that, over the past 2 years, have proposed relatively small payment rate reductions and have expended staff resources to add the services to the AMRP and complete the public process as required only to have received little or no feedback. Oftentimes, the impact on beneficiary access in FFS is limited due to the high managed care enrollment rates in states, and what little feedback might have been received through the public process has been related to how the proposed changes would impact managed care. These experiences have created additional confusion for states on how to address the rate reductions within the requirements of §§ 447.203 and 447.204. States have questioned the value of undertaking the rigorous process set out in those regulations when payment changes are nominal and unlikely to diminish access or when the actual impact of the changes is low relative to the overall program administration because most of the state's beneficiaries are enrolled with a comprehensive managed care entity. In those instances, this rule proposes to relieve states of the more rigorous regulatory processes, while reaffirming the need for states to offer alternative information supporting compliance with section 1902(a)(30)(A) of the Act when proposing payment reductions.

On November 16, 2017, we issued clarifying guidance to states through a State Medicaid Director Letter (SMDL #17–004) interpreting the requirements at § 447.203(b)(6) to apply only to payment changes that are more than nominal and that may result in circumstances that could diminish access to care. Within that guidance letter, we noted several payment changes that would likely not result in diminished access to care and, in the absence of information to the contrary (for example, high volume of access complaints), would be exempt from the *special provisions for proposed rate reductions or restructuring* procedures in § 447.203(b)(6). These include: Changes made to comply with other federal requirements, changes where Medicaid rates continue to be at or above Medicare or commercial payer rates, and changes consistent with those made by the Medicare program. We also described some nominal payment adjustments where it may be difficult for states to determine whether proposed SPA changes may result in diminished access. For those changes, the SMDL advised states to rely on the public process described in § 447.204(a) and the associated information received from stakeholders as an indicator of whether a change is likely to diminish access.

With this proposed rule, we are proposing to codify an exemption to the *special provisions for proposed rate reductions or restructuring* procedures in § 447.203(b)(6) for all payment rate changes where the reduction within a state plan service category is less than 4 percent of overall spending on the category within a single SFY and less than 6 percent over 2 consecutive SFYs. For example, if a state implements a rate reduction of 3.5 percent in one SFY and proposes an additional reduction of 3 percent the following SFY, the proposed 3 percent reduction would not be considered to be nominal. As discussed in the SMDL, we generally believed changes below the 4 percent threshold to be nominal and unlikely to diminish access to care but suggested states rely on the public process to make the determination. Based on the feedback we have obtained through the SPA review process, we continue to believe that changes below 4 percent are generally nominal and have found that such changes do not typically result in significant access concerns being raised by providers and other stakeholders. As such, this proposed rule would go further by providing an exemption from all of the procedures described in § 447.203(b)(6) for proposed payment rate reductions within the above thresholds, even if the state has not completed the public process described in § 447.204(a).

In addition to the proposed thresholds described above, we are proposing to make an additional modification to the regulations based on our implementation experience. Currently, when a state submits a SPA to us proposing to reduce or restructure Medicaid provider payment rates in circumstances when the changes could result in diminished access, the state must submit an analysis of the changes' effect on access. States have found considerable difficulty in anticipating the effects of rate changes on Medicaid beneficiaries' access to care. Our experience has shown that uncertainties inherent in these analyses have limited their accuracy and hence their usefulness. Moreover, the regulations at §§ 447.203(b)(6)(ii) and 447.203(b)(8) include considerable protections through requirements for monitoring and corrective actions by states to ensure that access remains undiminished after a payment rate change goes into effect (see 80 FR 67595 through 67596), and the utility of an anticipatory analysis has not been demonstrated. Recognizing that it is challenging for states to accurately predict the effects of many Medicaid payment rate changes on beneficiary access to care, we are proposing to modify this requirement and, instead, require states to submit an assurance that current access is consistent with requirements of the Act at the time of the SPA submission, and the baseline data that supports this assurance. We will also rely in part on the information received through the public input process to help understand the potential effects of proposed rate changes that exceed the thresholds proposed in this proposed rule, and the states' ongoing monitoring activities to ensure beneficiary access to care is maintained.

Importantly, while the SMDL provided relief to states for the rate reduction procedures in the regulations, neither the SMDL nor the policies discussed in this proposed rule, if finalized, would exempt states from their overall obligation to ensure that Medicaid rates are consistent with section 1902(a)(30)(A) of the Act, the public notice requirements in § 447.205, or the public process for determining institutional provider payment rates in section 1903(a)(13)(A) of the Act. As part of the SPA review process, we retain the discretion to request that states provide information that would allow us to compare the Medicaid population's access to care with that of the general population in the same geographic area and we will continue to document whether states have met applicable public notice and process requirements in our administrative records. Additionally, for states that do not meet the managed care exemption threshold, we will use the ongoing AMRP process to help identify and address potential access issues.

We are still interested in developing and adopting meaningful access measures that could apply consistently regardless of the service delivery approach used by the state. Our ultimate goal is to better measure, monitor and ensure Medicaid access across state programs and delivery systems. While there is a longstanding requirement in 42 CFR 431.16 that states are obligated to provide all reports required by the Secretary and must follow the Secretary's instructions regarding the form and content of such reports, we are using this opportunity to state that, in the future and informed by stakeholder feedback, we may look to adopt a more standardized form and content for the states' AMRP submissions.

II. Provisions of the Proposed Regulations

A. Exemption for States With High Managed Care Enrollment

We are proposing to amend § 447.203(b) to establish a comprehensive, risk-based managed care enrollment rate threshold for which states above the threshold would be exempt from meeting the requirements of § 447.203(b)(1) through (6). The threshold for exemption would be calculated to include services provided under comprehensive risk contracts between a state and a managed care organization as defined under § 438.2 and any entities required under the special terms and conditions of an 1115 demonstration to comply with part 438 in the same manner as a managed care organization. We are proposing an 85 percent threshold, meaning that states with an overall comprehensive, risk-based managed care enrollment rate of 85 percent or greater would be exempt from the specified requirements and would not be required to develop an AMRP or conduct an access analysis or add services to the AMRP when reducing or restructuring provider payment rates. We chose the 85 percent threshold based on comments received in response to the November 2, 2015 final rule with comment period in which states suggested thresholds ranging from 75 percent to 95 percent. We are seeking comment on whether an 85 percent overall threshold is appropriate, or if the threshold should be higher, or lower but stratified across eligibility categories (for example, a 70 percent overall threshold with at least a 50 percent managed care enrollment rate across all eligibility categories).

We are proposing to require states with a comprehensive, risk-based managed care enrollment rate at or above the threshold to submit to us an attestation by January 1 of each year. Because managed care enrollment rates fluctuate, we are proposing to require states to attest to meeting the threshold every year. The attestation would include the state's Medicaid managed care enrollment rate as of July 1st of the previous year. States that meet the managed care exemption threshold would not be required to comply with the requirements for development and updating the AMRP for the services otherwise subject to the requirements for ongoing review or the special provisions for proposed provider rate reductions in § 447.203(b)(1) through (b)(6) during that calendar year.

Consistent with the proposed changes to § 447.203(b)(1) through (6), we are also proposing changes to § 447.204, redesignating paragraph (d) to new paragraph (e), and adding a new paragraph (d), for states that meet the 85 percent managed care enrollment threshold. When proposing to reduce or restructure Medicaid payment rates, these states would be exempt from the requirements to consider the data collected through the AMRP and undertake a public process that solicits input on the potential impact of the proposed rate reduction or restructuring SPA, and accordingly, would not be required to include documentation supporting compliance with the AMRP review and public process otherwise required under § 447.204(a) through (c) with the SPA submission. However, states are not exempt from the statutory requirements and, when proposing to reduce or restructure Medicaid payment rates in circumstances that may diminish access, would be required to present alternative data and analysis, determined at the discretion of the state, to support compliance with section 1902(a)(30)(A) of the Act. As such, we are proposing to include the requirement for states to submit such alternative data in § 447.204(d). We are requesting comments on the types of alternative data and analysis that states may present to support compliance with section 1902(a)(30)(A) of the Act, which we may use to inform future sub-regulatory guidance to states.

B. Exemption for Payment Rate Changes

We are proposing to amend §§ 447.203(b)(6) and 447.204 to set a threshold for nominal payment rate changes that are below 4 percent for a Medicaid service category in total within a single SFY and 6 percent over two consecutive SFYs. For purposes of this proposed rule, service categories are those generally defined under sections 1905(a)(1) through (29) of the Act (that is, inpatient hospital services, outpatient hospital services, other laboratory and X-ray service, etc.) and other applicable sections that specify categories of services eligible for medical assistance under the State plan. Such nominal payment rate changes will not be subject to the *special provisions for rate reductions or restructuring* procedures in § 447.203(b)(6), and similarly, states would not be subject to the requirements of § 447.204(a) through (c) when submitting a SPA for such changes. Additionally, since states may make rate changes in consecutive years, we are proposing to limit the exemption threshold to a 6 percent reduction in spending for a Medicaid service category over 2 consecutive SFYs.

We are requesting comments to determine whether the nominal threshold should be higher or lower than 4 percent for a single SFY and 6 percent for 2 consecutive SFYs, recognizing that state legislatures need sufficient flexibility to manage budgets and make adjustments to Medicaid spending that are unlikely to result in diminished access to care for program beneficiaries. We are proposing to limit the 4 percent threshold exemption over a state fiscal year, rather than apply the 4 percent to a single SPA submission, and to apply the 6 percent threshold as a cumulative threshold over 2 consecutive SFYs. This means that state payment rate changes would be exempted from the *special provisions for proposed rate reductions or restructuring* in § 447.203(b)(6) and the SPA submission requirements in § 447.204(a) through (c) as long as they do not exceed 4 percent in total spending for a service category within a single SFY and 6 percent over 2 consecutive SFYs. We believe this policy would provide state legislatures sufficient leeway to make nominal Medicaid payment changes that, considering the cumulative effects of the proposed year-over-year changes, would be unlikely to have adverse impacts on Medicaid beneficiaries' access to care. We seek comment on these proposals, including on the potential impacts of cumulative rate reductions over more than 2 consecutive SFYs, as well as on potential alternatives to the 6 percent threshold and on the 2 consecutive SFYs timeframe from consideration of cumulative impacts of year-over-year changes.

In conjunction with the proposed changes to § 447.203(b)(6), we are also proposing changes to § 447.204, to include in the new paragraph (d) an exemption for states that are proposing payment rate reductions below the threshold of 4 percent within a single SFY (6 percent over 2 consecutive SFYs). When submitting such nominal payment rate reductions, such states would not be required to consider the data collected through the AMRP and undertake a public process that solicits input on the potential impact of the proposed rate reduction or restructuring SPA, and accordingly, would not be required to include documentation supporting compliance with the AMRP review and public process otherwise required under § 447.204(a) through (c) with the SPA submission. Although we are proposing this exemption from the regulatory requirements at §§ 447.203(b)(6) and 447.204(a) through (c) for the proposed SPAs that would

implement nominal payment rate reductions, states are not exempt from the statutory requirements and, when proposing to reduce or restructure Medicaid payment rates in circumstances that may diminish access, would be required to present alternative analysis and supporting data, determined at the discretion of the state, to demonstrate compliance with section 1902(a)(30)(A) of the Act. Accordingly, we are proposing to include the requirement for states to submit such alternative data in § 447.204(d). We are requesting comments on the types of alternative analysis and supporting data that states may present to demonstrate compliance with section 1902(a)(30)(A) of the Act, which we may use to inform future sub-regulatory guidance to states.

C. Modification of Payment Rate Change SPA Submission Information

We are proposing to amend § 447.204(b)(2) to remove the requirement that states submit an analysis of the effect the change in payment rates will have on access and instead require that states submit an assurance and baseline data that supports the state's conclusion that current access is sufficient for the services impacted by the rate change. The data will be used as part of the state's plan to monitor the effects of the rate reduction for 3 years following implementation, when required under § 447.203(b)(6). We are proposing this change because we have determined that the current requirement of having states provide an analysis of the effect that a proposed payment rate reduction might have on access is of limited usefulness due to many uncertainties inherent to such analyses. Therefore, we believe that having the state submit baseline data on access to services will be more helpful to CMS in ensuring that a state's proposed payment rate reductions are consistent with section 1902(a)(30)(A) of the Act.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for the following sections of this document that contain proposed information collection requirements:

- Exemption for States with High Managed Care Penetration (§§ 447.203(b) and 447.204(a) through (c))
- Exemption for Payment Rate Changes (§§ 447.203(b) and 447.204(a) through (c))
- Modification of Payment Rate Change SPA Submission Information (§ 447.204(b)(2))

A. Wage Estimates

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' May 2016 National Occupational Employment and Wage Estimates for all salary estimates (*http://www.bls.gov/oes/current/oes_nat.htm*). In this regard, Table 1 presents the mean hourly wage, the cost of fringe benefits and overhead (calculated at 100 percent of salary), and the adjusted hourly wage.

TABLE 1—NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

Occupation title	Occupation code	Mean hourly wage ($/hr)	Fringe benefits and overhead ($/hr)	Adjusted hourly wage ($/hr)
Business Operations Specialist	13–1000	34.54	34.54	69.08
Computer and Information Analyst	15–1120	44.36	44.36	88.72
General and Operations Manager	11–1021	58.70	58.70	117.40
Management Analyst	13–1111	44.19	44.19	88.38
Social Science Research Assistant	19–4061	22.51	22.51	45.02

We adjusted our employee hourly wage estimates by a factor of 100 percent. This was necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there was no practical alternative and we believed that doubling the hourly wage to estimate total cost was a reasonably accurate estimation method.

B. Proposed Information Collection Requirements (ICRs)

1. ICRs Regarding Exemption for States With High Managed Care Enrollment (§§ 447.203(b) and 447.204(a) Through (c))

Current provisions at § 447.203(b)(1) through (3) require that states develop and make publicly available an access monitoring review plan using data trends and factors that considers: Beneficiary needs, availability of care and providers, and changes in beneficiary utilization of covered services.

Section 447.203(b)(1) and (2) describes the minimum factors that states must consider when developing an access monitoring review plan. Specifically, we require the review to include: Input from both Medicaid beneficiaries and Medicaid providers, an analysis of Medicaid payment data, and a description of the specific measures the state will use to analyze access to care. We require that states use existing provider feedback mechanisms, such as medical advisory committees described in § 431.12, rather than create new requirements, to avoid placing unnecessary burden on states.

Section 447.203(b)(3) requires that states include aggregate percentage comparisons of Medicaid payment rates to other public (including, as practical, Medicaid managed care rates) or private

health coverage rates within geographic areas of the state.

Section 447.203(b)(4) describes the minimum content that must be in included in the monitoring plan. States are required to describe: The measures the state uses to analyze access to care issues, how the measures relate to the overarching framework, access issues that are discovered as a result of the review, and the state Medicaid agency's recommendations on the sufficiency of access to care based on the review.

Section 447.203(b)(5) describes the timeframe for states to develop the access monitoring review plan and complete the data review for the following categories of services: Primary care, physician specialist services, behavioral health, pre- and post-natal obstetric services including labor and delivery, home health, any services for which the state has submitted a state plan amendment to reduce or restructure provider payments which changes could result in diminished access, and additional services as determined necessary by the state or CMS. While the initial access monitoring review plans have been completed, the plan must be updated at least every 3 years, but no later than October 1 of the update year.

In our currently approved information collection request (CMS–10391; OMB 0938–1134), we estimated that the requirements to develop and make the access monitoring review plans publically available under § 447.203(b)(1) through (4) for the specific categories of Medicaid services will affect each of the 50 state Medicaid programs and the District of Columbia (51 total respondents). We estimated it will take a one-time effort of 5,100 hr to develop the access monitoring review plan, 8,160 hr to collect and analyze the data, and 2,040 to publish the plan and 510 hr for a manager to review and approve the plan (15,810 total hours at a cost of $1,197,194.40, or $23,474.40 per state). Since the initial one-time requirement has been met, and since the policies in this proposed rule would create exemptions from certain current requirements, we are now estimating this proposed rule as a burden reduction.

In deriving these figures we used the following labor rates and time to complete each task: 80 hr at $45.02/hr for a research assistant staff to gather data, 80 hr at $88.72/hr for an information analyst staff to analyze the data, 100 hr at $88.38/hr for management analyst staff to update the content of the access review monitoring plan, 40 hr at $69.08/hr for business operations specialist staff to publish the access monitoring review plan, and 10 hr at $117.40/hr for managerial staff to review and approve the access monitoring review plan.

TABLE 2—ACCESS MONITORING REVIEW PLAN: REDUCED ONE-TIME BURDEN

[per state]

Requirement	Occupation title	Burden hours	Adjusted hourly wage ($/hr)	Cost per monitoring plan ($/state)
Gathering Data	Social Science Research Assistant	(80)	45.02	(3,601.60)
Analyzing Data	Computer and Information Analyst	(80)	88.72	(7,097.60)
Developing Content of Access Review Monitoring Plan.	Management Analyst	(100)	88.38	(8,838.00)
Publishing Access Review Monitoring Plan	Business Operations Specialist	(40)	69.08	(2,763.20)
Reviewing and Approving Access Review Monitoring Plan.	General and Operations Manager	(10)	117.40	(1,174.00)
Total		(310)	varies	(23,474.40)

TABLE 3—ACCESS MONITORING REVIEW PLAN: REDUCED ONE-TIME BURDEN

[Total]

Anticipated number of state reviews	Total hours	Cost of review per state ($)	Total cost estimate ($)
(51)	(15,810) [−310 hr × 51 reviews]	(23,474.40)	(1,197,194.40)

Based on this rule's proposed exemption for states with managed care enrollment rates at or above 85 percent, we are adjusting our on-going access monitoring review plan burden by reducing the number of states (and DC) by 17, from 51 to 34 states, because as of July 2016, we estimate that 17 states had a managed care enrollment rate of at least 85 percent and would therefore meet the threshold for an exemption based on high managed care enrollment. We relied on data from the Kaiser Family Foundation website (*https://www.kff.org/data-collection/medicaid-managed-care-market-tracker/*) to arrive at the estimates, although we note that we will rely upon state attestations of meeting or exceeding the enrollment rate threshold to administer the exemption. Consistent with our currently approved estimates, we continue to anticipate that the average ongoing burden is likely to be the same as the average initial burden estimates since states will need to re-run the data, determine whether to add or drop measures, consider public feedback, and write-up new conclusions based on the information they review. In this regard, we estimate that the exemption would reduce our estimates by 5,270 hr (from 15,810 hr to 10,540 hr) and $399,064.80.

TABLE 4—ACCESS MONITORING REVIEW PLAN: REDUCED ON-GOING BURDEN

Anticipated number of state reviews	Total hours	Cost of review per state ($)	Total cost estimate ($)
(17)	(5,270) (−310 hr × 17 reviews)	(23,474.40)	(399,064.80)

In lieu of developing and updating the access monitoring review plan for the services subject to the ongoing review or for proposed provider rate reductions or payment restructurings that could result in diminished access, this rule proposes that states seeking an exemption from those requirements based on having a comprehensive risk-based managed care enrollment rate at or above 85 percent must submit an annual attestation of its Medicaid managed care enrollment rate as of July 1 of the previous year to CMS. We anticipate states will use the same enrollment data required to be monitored under § 438.66 and included in the currently approved information collection request (CMS–10108; OMB 0938–0920) as a basis for the annual attestation. As such, we estimate the burden associated with the annual attestation to be 0.5 hr at $117.40/hr for a General and Operations Manager to develop the attestation document and submit it to CMS. In aggregate, we estimate an annual burden of 8.5 hr (0.5 hr × 17 respondents) at a cost of $997.90 (8.5 hr × $117.40/hr) or $58.70 per respondent.

TABLE 5—ANNUAL ATTESTATION ON-GOING BURDEN

Anticipated number of state reviews	Total hours	Cost of review per state ($)	Total cost estimate ($)
17	8.5 (0.5 hr × 17 reviews)	58.70	997.90

The revised requirements and burden will be submitted to OMB for approval under control number 0938–1134 (CMS–10391).

2. ICRs Regarding Exemption for Payment Rate Changes (§§ 447.203(b)(6) and 447.204(a) Through (c))

Section 447.203(b)(6)(ii) requires states to have procedures within the access monitoring review plan to monitor continued access after implementation of a SPA that reduces or restructures payment rates. The monitoring procedures must be in place for at least 3 years following the effective date of the SPA. The ongoing burden associated with the requirements under § 447.203(b)(6)(ii) is the time and effort it would take each of the state Medicaid programs to monitor continued access following the implementation of a SPA that reduces or restructures payment rates.

For provider rate reductions to a service category that are below 4 percent per state fiscal year, and below 6 percent across two consecutive state fiscal years, the proposed changes to § 447.203(b)(6)(i) would exempt states from the analysis and monitoring procedures described in § 447.203(b)(6)(ii).

In our currently approved information collection request (CMS–10391; OMB 0938–1134), we estimated that in each SPA submission cycle, states would submit 22 SPAs to implement rate changes or restructure provider payments based on the number of submissions received in FY 2010.

We estimated that it would take, on average, 880 hr to develop the monitoring procedures, 528 hr to periodically review the monitoring results, and 66 hr for review and approval of the monitoring procedures (1,474 total hours). We also estimated an average cost of $6,008.52 per state and $132,187.44 (total).

In deriving these figures we used the following labor rates and time to complete each task: 40 hr at $88.38/hr for management analyst staff to develop the monitoring procedures, 24 hr at $88.38/hr for management analyst staff to periodically review the monitoring results, and 3 hr at $117.40/hr for management staff to review and approve the monitoring procedures.

TABLE 6—ACCESS MONITORING PROCEDURES FOLLOWING RATE REDUCTION SPA—BURDEN PER STATE

[Annual]

Requirement	Occupation title	Burden hours	Adjusted hourly wage ($/hr)	Cost per data review ($/state)
Develop Monitoring Procedures	Management Analyst	40	88.38	3,535.20
Periodically Review Monitoring Results	Management Analyst	24	88.38	2,121.12
Approve Monitoring Procedures	General and Operations Manager	3	117.40	352.20
Total		67	varies	6,008.52

We are revising our estimates based on more current data that we collected during the 2016 submission cycle and reducing the burden hours to account for the proposed managed care enrollment rate exemption and threshold for payment rate reductions. During the 2016 submission cycle, we received approximately 23 payment rate change submissions from nine states that would have fallen under the monitoring procedure's information

collection burden, which is generally consistent with our currently approved burden estimates.

Of the 23 submissions, 9 would meet the exemption criteria for states with managed care enrollment rates at or above 85 percent. For the remaining 14 submissions, we believe 4 may have fallen below the 4 percent threshold for overall spending within the service category exemption for a single state fiscal year, and 6 percent for two consecutive state fiscal years based on information provided by the state during the SPA review process. Based on the proposed exemptions process, we are reducing our original estimated number of SPA submissions from 22 to 10. We note that there is some variability in state SPA submissions from year-to-year and the number of rate reduction SPAs that states submit to CMS for approval.

TABLE 7—REVISED ACCESS MONITORING PROCEDURES FOLLOWING RATE REDUCTION SPA—TOTAL BURDEN

[Annual]

Anticipated number of state reviews	Total hours	Cost of review per state ($)	Total cost estimate ($)
(12)	(804) [−67 hr × 12 responses]	(6,008.52)	(72,102.24)

The revised requirements and burden will be submitted to OMB for approval under control number 0938–1134 (CMS–10391).

3. ICRs Regarding Modification of Payment Rate Change SPA Submission Information (§ 447.204(b)(2))

Section 447.204(b)(2) requires states to include specific documentation to demonstrate access when submitting a SPA that proposes to reduce or restructure payment rates. Included in the documentation, states are required to submit a copy of its most recent access monitoring review plan that includes the services for which payment is being reduced or restructured and an analysis of the effect of the changes in payment rates on access. The burden associated with such submission is included under § 447.203(b)(1) (see above) for ongoing access monitoring review plan (reduction of 10,540 hr).

We are proposing to modify the requirement in § 447.204(b)(2) so that states will no longer be required to predict the effect the payment rate change will have on access, and will instead be required to submit to CMS an assurance that data indicates current access is consistent with requirements of the Act. We do not anticipate there will be any changes in burden based on the proposal since it would merely change the expectation for the type of conclusion that the state will draw using its analysis from one that anticipates future access to one that infers access is currently sufficient.

The revised requirement will be submitted to OMB for approval under control number 0938–1134 (CMS–10391).

C. Summary of Proposed Information Collection Requirements and Burden

TABLE 8—PROPOSED ANNUAL RECORDKEEPING AND REPORTING REQUIREMENTS UNDER OMB CONTROL NUMBER 0938–1134

[CMS–10391]

Regulatory section(s) in Title 42 of the CFR	Respondents	Responses	Burden per response (hr)	Total annual burden (hr)	Labor cost ($/hr)	Total cost ($)
§ 447.203(b)(1)–(4) (one time requirement)	(51)	(51)	(310)	(15,810)	varies	(1,197,194)
§ 447.203(b)(1)–(4) (on-going requirement)	(17)	(17)	(310)	(5,270)	varies	(399,065)
§ 447.203(b) (attestation)	17	17	0.5	8.5	117.40	998
§ 447.203(b)(6) (monitoring following rate reduction/restructuring)	(12)	(12)	(67)	(804)	varies	(72,102)
Total	(34)	(34)	(561.5)	(21,808.5)	varies	(1,667,363)

D. Submission of PRA-Related Comments

We have submitted a copy of this proposed rule to OMB for its review of the rule's information collection and recordkeeping requirements. The requirements are not effective, if finalized, until they have been approved by OMB.

We invite public comments on these information collection requirements, and particularly on submission frequency and burden hours per response. If you wish to comment, please identify the rule (CMS–2406–P) and, where applicable, the ICR's CFR citation, CMS ID number, and OMB control number.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

See this rule's **DATES** and **ADDRESSES** sections for the comment due date and for additional instructions.

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Regulatory Impact Analysis

A. Statement of Need

This proposed rule impacts states' documentation of compliance with section 1902(a)(30)(A) of the Act. This

proposed rule would provide burden relief to states with comprehensive, risk-based managed care enrollment rates above 85 percent of the total covered Medicaid population within a state's Medicaid program and states making rate reductions to services below a threshold of 4 percent of overall Medicaid spending within a service category (for example, physician services) within a single SFY and 6 percent over 2 consecutive SFYs by exempting them from certain processes described in §§ 447.203 and 447.204. This proposed rule also would modify the requirements at § 447.204(b)(2) so that states must submit to CMS with SPAs that reduce or restructure Medicaid payment rates an assurance that the current baseline data indicates access is consistent with the Act, rather than an analysis anticipating the effects of a proposed change in payment rates.

B. Overall Impact

We have examined the impacts of this proposed rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)) and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This proposed rule is not economically significant with an overall estimated reduced economic reporting burden of $449,961.

C. Anticipated Effects

1. Effects on State Medicaid Programs

We anticipate effects on state Medicaid programs that have high comprehensive, risk-based managed care enrollment rates and that make adjustments to their Medicaid payment rates that are unlikely to diminish access to care. States with comprehensive, risk-based managed care enrollment rates of 85 percent or above would no longer be required to maintain and update the access monitoring review plans required under the regulations. In addition, states that make nominal changes to their Medicaid payment rates, defined below 4 percent for a SFY and 6 percent for 2 consecutive SFYs, would no longer be required to conduct monitoring activities described in the regulations related to those SPA changes. Importantly, the provisions of this proposed rule provide exemptions to the regulatory procedure requirements for demonstrating access to care. However, states are not exempt from the statutory requirements described at section 1902(a)(30)(A) of the Act and must have alternative approaches to ensure access is consistent with the Act when reducing Medicaid payment rates.

2. Effects on Small Business and Providers

We anticipate some effects on small businesses and providers that reside in states that meet the exemption criteria described in the proposed rule but only to the extent that we would have disapproved a SPA based on the information required for submission through the regulations. As the exemptions proposed in the proposed rule are either for states with relatively low fee-for-service delivery (and related expenditures) and for nominal payment rate changes, we do not anticipate the effects will be significant.

3. Effects on the Medicaid Program

The estimated fiscal impact on the Medicaid program from the implementation of the proposed rule is estimated to be a net savings to Medicaid state agencies. These estimates are based on our estimation that 17 states will no longer be required to maintain and update the AMRPs and the approximate number annual SPAs requiring access monitoring will be reduced by 11. This will have a relatively minor effect on state administrative expenditures, with a total anticipated reduction in spending of $1,667,363. However, states have raised significant concerns over the administrative burden and associated benefits to complying with the regulatory requirements both when the majority of Medicaid beneficiaries are served through managed care and when making minor adjustments to Medicaid payments that they believe are unlikely to diminish access to care.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business (having revenues of less than $7.5 million to $38.5 million in any one year). Individuals and states are not included in the definition of a small entity. As previously stated, we do not anticipate any effect on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2017, that threshold is approximately $148 million. This rule does not contain mandates that will impose spending costs on state, local, or tribal governments in the aggregate, or by the

private sector, in excess of the threshold.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This rule does not have a substantial impact on state or local governments.

D. Alternatives Considered

In developing this rule, the following alternatives were considered:

1. We considered proposing a managed care enrollment exemption threshold at or above 70 percent but, in reviewing programmatic data, we discovered that the rate of managed care coverage can vary significantly based on category of Medicaid eligibility. For instance, while many states would meet the 70 percent threshold, the rate of managed care coverage for certain populations may fall well below 50 percent. This is frequently the case for individuals who are eligible based on a combination of income and age or as a result of disability. The disproportion of coverage based on eligibility appears significantly less with an exemption threshold at or above 85 percent, therefore the proposed rule would set such a limit. However, we are requesting comments on the exemption threshold and whether additional considerations, discussed in more detail above, may be applied to allow a lower threshold.

2. In codifying the 4 percent exemption for access monitoring, we considered whether the exemption percentage was too low or too high. As described in our SMDL on this matter, we believe that rate changes below a 4 percent threshold are unlikely to diminish access to care and generally the benefits of monitoring access for such reductions are not consistent with the administrative burden associated with monitoring. We are requesting comment on whether 4 percent is too high or low, but determine 4 percent to be appropriate for purposes of the proposed rule. We also considered applying the 4 percent exemption threshold annually but, in evaluating the potential cumulative effects of year-over-year rate reductions, proposed a 6 percent threshold over 2 SFYs. We request comment on consideration of cumulative impacts, including the 6 percent threshold amount and 2 SFYs timeframe.

E. Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the $1.66 million estimated cost savings of this rule can be found in the preceding analyses.

G. Conclusion

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, and Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 447.203 is amended by revising paragraphs (b) introductory text, (b)(6)(i) and (ii) to read as follows:

§ 447.203 Documentation of access to care and service payment rates.

* * * * *

(b) In consultation with the medical care advisory committee under § 431.12 of this chapter, the agency must develop a medical assistance access monitoring review plan and update it, in accordance with the timeline established in paragraph (b)(5) of this section and with procedures established by CMS. The plan must be published and made available to the public for review and comment for a period of no less than 30 days, prior to being finalized and submitted to CMS for review. States that have for all eligibility groups combined at least 85 percent of beneficiaries enrolled in Medicaid managed care organizations, as defined in § 438.2 of this chapter, and including section 1115 demonstration populations enrolled under such comprehensive risk contracts, are not required to meet the requirements under paragraphs (b)(1) through (6) of this section. Any state seeking an exemption based on an overall Medicaid managed care enrollment of 85 percent or higher must submit an annual attestation of its Medicaid managed care enrollment rate as of July 1 of the previous year to CMS. In lieu of the requirements under paragraph (b)(6) of this section, States that have overall Medicaid managed care enrollment of at least 85 percent for the calendar year, must submit an alternative analysis and certification, including the data and other information on which the analysis and certification are based, that demonstrate compliance with section 1902(a)(30)(A) of the Act.

* * * * *

(6) * * *

(i) *Compliance with access requirements.* The State shall submit with any State plan amendment that proposes to reduce provider payments by greater than 4 percent in overall service category spending in a State fiscal year or greater than 6 percent across two consecutive State fiscal years, or restructure provider payments in circumstances when the changes could result in diminished access, an access review, in accordance with the access monitoring review plan, for each service affected by the State plan amendments as described under paragraph (b)(1) of this section completed within the prior 12 months. That access review must demonstrate sufficient access for any service for which the State agency proposes to reduce payment rates or restructure provider payments to demonstrate compliance with the access requirements at section 1902(a)(30)(A) of the Act.

(ii) *Monitoring procedures.* In addition to the analysis conducted through paragraphs (b)(1) through (4) of this section that demonstrates access to care is sufficient as of the effective date of the State plan amendment, for any State plan amendment that reduces provider payment greater than 4 percent in overall service category spending in a State fiscal year or greater than 6 percent across two consecutive State fiscal years, or restructures provider payments in circumstances when the changes could result in diminished access, the state must establish procedures in its access monitoring review plan to monitor continued access to care after implementation of state plan service rate reduction or payment restructuring. The frequency of monitoring should be informed by the public review described in paragraph (b) of this section and should be conducted no less frequently than annually.

* * * * *

■ 3. Section 447.204 is amended by—

■ a. Revising paragraphs (a) introductory text, (b) introductory text, (b)(2), and (c).
■ b. Redesignating paragraph (d) as paragraph (e).
■ c. Adding new paragraph (d).

The revisions and addition read as follows:

§ 447.204 Medicaid provider participation and public process to inform access to care.

(a) The agency's payments must be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that services under the plan are available to beneficiaries at least to the extent that those services are available to the general population. Except as provided in paragraph (d) of this section, in reviewing payment sufficiency, states are required to consider, prior to the submission of any state plan amendment that proposes to reduce or restructure Medicaid service payment rates:

* * * * *

(b) Except as provided in paragraph (d) of this section, the State must submit to CMS with any such proposed State plan amendment affecting payment rates:

* * * * *

(2) An assurance that access to care is sufficient in accordance with section 1902(a)(30)(A) of the Act, and baseline data to support this conclusion; and

* * * * *

(c) Except as provided in paragraph (d) of this section, CMS may disapprove a proposed state plan amendment affecting payment rates if the state does not include in its submission the supporting documentation described in paragraph (b) of this section, for failure to document compliance with statutory access requirements. Any such disapproval would follow the procedures described at part 430 Subpart B of this title.

(d) Paragraphs (a) through (c) of this section shall not apply in the case of a state that is not required to meet the requirements of § 447.203(b)(1) through (b)(6) because the state has Medicaid managed care enrollment of at least 85 percent, as described in § 447.203(b), or in the case of a proposed State plan amendment that reduces provider payment rates by no more than 4 percent in any State fiscal year, and no more than 6 percent across two consecutive State fiscal years. In lieu of the requirements under paragraphs (a) though (c) of this section, States that are not required to meet these requirements pursuant to this paragraph must submit to CMS an alternative analysis, along with supporting data, to demonstrate compliance with section 1902(a)(30)(A) of the Act when submitting a state plan amendment that proposes to reduce or restructure Medicaid service payment rates in circumstances that may diminish access to care.

* * * * *

Dated: March 1, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: March 16, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–05898 Filed 3–22–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180123065–8065–01]

RIN 0648–XF989

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2018 Allocation of Northeast Multispecies Annual Catch Entitlements and a Proposed Regulatory Exemption for Sectors

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rulemaking proposes allocations of annual catch entitlements to groundfish sectors for the 2018 fishing year and also proposes a new regulatory exemption for sectors. The action is necessary because sectors must receive allocations in order to operate. This action is intended to ensure sector allocations are based on the best scientific information available and help achieve optimum yield for the fishery.

DATES: Comments must be received on or before April 9, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0039, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0039,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail*: Submit written comments to Michael Pentony, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the 2018 Sector Allocations.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of each sector's operations plan and contract, as well as the programmatic environmental assessment for sectors operations in fishing years 2015 to 2020, are available from the NMFS Greater Atlantic Regional Fisheries Office (GARFO): Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the GARFO website: *https://www.greateratlantic.fisheries.noaa.gov/*.

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

Background

The Northeast multispecies (groundfish) sector management system allocates a portion of available groundfish catch by stock to each sector. Each sector's annual allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. The ACEs are a portion of a stock's annual catch limit (ACL) available to commercial groundfish vessels. A sector determines how to harvest its ACEs and may decide to limit operations to fewer vessels. Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout are not managed under the sector system, and sectors do not receive allocations of these groundfish species. With the exception of halibut that has a 1-fish per vessel trip limit, possession of these stocks is prohibited.

Because sectors elect to receive an allocation under a quota-based system,

the Northeast Multispecies Fishery Management Plan (FMP) grants sector vessels several ''universal'' exemptions from the FMP's effort controls. The FMP allows sectors to request additional exemptions to increase flexibility and fishing opportunities, but prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the sectors, there are several state-operated permit banks, which receive allocation based on the fishing history of permits that the state holds. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with sector administrative and procedural requirements (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of permits to us, as specified in the permit bank's Memorandum of Agreement between NMFS and the state. These permits are not active vessels; instead, the allocations associated with the permits may be leased to vessels enrolled in sectors. State-operated permit banks contribute to the total allocation under the sector system.

We approved nineteen sectors to operate in fishing years 2017 and 2018, and also approved 21 requested exemptions for sectors (82 FR 19618; April 28, 2017). On November 20, 2017, we withdrew approval for a single sector, Northeast Fishery Sector IX (NEFS 9) (82 FR 55522; November 22, 2017). Because all approved operations plans cover two fishing years approved sectors may continue operations in fishing year 2018. Copies of the operations plans and contracts, and the environmental assessment (EA), are available at: *https://www.greateratlantic.fisheries.noaa.gov* and from NMFS (see **ADDRESSES**). This action would make 2018 allocations to sectors based on the specifications recommended in Framework 57 to the Northeast Multispecies Fishery Management Plan (FMP). This action also proposes a new regulatory exemption to increase fishing opportunities for monkfish while fishing on a groundfish sector trip.

Sector Allocations for Fishing Year 2018

Sectors may not harvest ACE without an approved sector operations plan. This rule does not approve operations plans, but proposes 2018 ACE allocations to all sectors based on their 2017 sector rosters, including NEFS 9. Because sectors are operating under 2-year operations plans for fishing years 2017 and 2018, these allocations would allow vessels enrolled in sectors to operate under their existing operations plan, as approved. NEFS 9 does not currently have an approved operations plan. NEFS 9 is unable to trade ACE, and its member vessels are unable to take groundfish trips, until a new sector operations plan is approved. When NEFS 9 submits a new operations plan, we expect to conduct a separate rulemaking to review and consider approval of the new plan. ACE trading and fishing activity would be allowed only under the provisions of a new approved operations plan.

The 2018 allocations in this proposed rule are based on sector enrollment in fishing year 2017. For fishing year 2018, we have set a deadline for sectors to submit preliminary sector rosters by March 20, 2018, in order to determine rosters for final rulemaking and allocations. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2018, to withdraw from a sector and fish in the common pool for fishing year 2018. The allocations proposed in this rule are based on the fishing year 2018 specifications that the Council recommended in Framework Adjustment 57 to the FMP. These allocations are not final, and are subject to the approval of Framework 57. We expect a rule proposing the Framework 57 measures to publish in March 2018.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 1 shows the projected total PSC for each sector by stock for fishing year 2018. Tables 2 and 3 show an estimate of the initial allocations that each sector will be allocated, in pounds and metric tons, respectively, for fishing year 2018, based on their fishing year 2017 rosters. At the start of the fishing year, we provide the final allocations, to the nearest pound, to the individual sectors, and we use those final allocations to monitor sector catch. The common pool sub-ACLs are also included in each of these tables. The fishing year 2018 common pool sub-ACLs are set in Framework 57, and are calculated using the PSC of permits not enrolled in sectors. The common pool sub-ACL is managed separately from sectors and does not contribute to available ACE for leasing or harvest by sector vessels, but is shown for comparison.

We do not assign a permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) as its Eastern GB cod. The Eastern GB haddock allocations are determined in the same way. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area. A sector may also ''convert,'' or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2018, we may withhold 20 percent of each sector's fishing year 2018 allocation until we finalize fishing year 2017 catch information. We expect to finalize 2017 catch information for sectors in summer 2018. We will allow sectors to transfer fishing year 2017 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2017 overages. If necessary, we will reduce any sector's fishing year 2018 allocation to account for a remaining overage in fishing year 2017. Each year we notify sector managers of this deadline and announce this decision on our website at: *http://www.greateratlantic.fisheries.noaa.gov/*.

BILLING CODE 3510–22–P

Table 1. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2018.*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector/FGS	115	28.63360733	2.98184781	6.34132935	2.06115496	0.01410317	0.37015063	3.06163632	1.00120862	2.15174107	0.02840963	13.60089150	2.33905249	2.78896863	5.84270751	8.02118378
Maine Coast Community Sector	64	0.96681005	9.52130659	0.96065073	6.34858867	1.58666588	1.27352349	3.25375532	9.90276015	7.47002898	0.66990195	3.11274949	1.48754318	5.95496715	10.49289957	10.68115015
Maine Permit Bank	11	0.13359371	1.11872447	0.04432773	1.12188717	0.01377502	0.03180376	0.31762341	1.16355125	0.72681790	0.00020300	0.42608416	0.01787250	0.82072594	1.63834428	1.67055830
NCCS	31	0.39767691	2.09639037	0.35133778	1.53239089	0.83924990	0.70058623	1.89733263	0.61211670	1.25009064	0.05429194	2.14164276	0.70544113	0.99917766	1.95739966	1.76182806
NEFS 1	3	0.00000000	0.03068546	0.00000000	0.00248698	0.00000000	0.00000000	0.03756612	0.00855916	0.01274888	0.00000096	0.05214631	0.00000323	0.00000000	0.00000000	0.00000000
NEFS 2	83	5.85541718	18.47213778	10.66648243	17.07320773	1.86551235	1.73025022	19.67090615	9.30588220	13.20604152	3.20670608	18.77821688	3.50565010	14.84582171	6.44570163	11.38797275
NEFS 3	56	0.73328653	9.90286344	0.05053684	6.81001449	0.04401911	0.06601225	6.08162313	2.07048057	1.68826788	0.01361530	6.98897919	0.40775084	0.75392766	3.23935183	3.96297748
NEFS 4	52	4.16599860	10.61447171	5.35062798	8.59795158	2.16156175	2.35100229	6.05790602	9.38776810	8.70651087	0.69179797	6.95344381	1.28380059	6.72217299	8.08697005	6.35469971
NEFS 5	24	0.48035927	0.00067964	0.81553839	0.00357186	1.27619529	20.92709585	0.20599449	0.43228907	0.56243365	0.43634226	0.01751787	11.99075496	0.01454434	0.09441925	0.04248122
NEFS 6	22	2.86957812	2.96017293	2.92681853	3.84084576	2.70263541	5.27021762	3.73595895	3.89175649	5.20520629	1.50474419	4.56247441	1.93853382	5.31060100	3.91460371	3.30548119
NEFS 7	20	1.25480636	0.80376681	1.35247704	0.59037186	3.41209604	2.47183060	2.26724135	0.73975638	0.93610137	1.28133136	2.38588460	0.80357683	0.35693646	0.55809083	0.45451036
NEFS 8	17	6.51790722	0.15594187	5.94719762	0.06821334	10.63224074	5.21885960	2.59779718	2.08752528	2.44109420	21.16004781	0.68022107	8.97265613	0.50683898	0.46632724	0.61322607
NEFS 9	60	13.16828902	3.01666261	11.24352608	7.39149111	25.19220000	8.72232143	10.61700121	9.70689545	9.41350439	32.56133094	2.94647951	17.95005455	9.05149193	6.37855417	6.36126311
NEFS 10	27	0.33828109	2.34583468	0.16461659	1.24660884	0.00114042	0.54741703	4.00864630	0.93107515	1.69016836	0.01083151	8.95328087	0.48768027	0.32509525	0.61408657	0.69606092
NEFS 11	51	0.40628536	12.22775734	0.03722053	3.07912475	0.00149970	0.01753332	2.36240968	2.05487081	1.93472053	0.00330849	2.08420270	0.02150399	1.96478551	4.72610919	9.01756005
NEFS 12	19	0.63151303	2.98152458	0.09401144	1.04520246	0.00042969	0.01049524	7.95034035	0.50391090	0.56855101	0.00043898	7.66448782	0.21889325	0.22950555	0.29535685	0.82496955
NEFS 13	62	12.18285679	0.90896251	20.11363366	1.05046789	34.49943811	21.02740300	8.83804125	8.48405225	9.29843980	17.82189215	3.04937928	16.60357909	4.28302829	2.14904573	2.61919403
New Hampshire Permit Bank	4	0.00082205	1.14256555	0.00003406	0.03229444	0.00002026	0.00001788	0.02178570	0.02847521	0.00615947	0.00000324	0.06062793	0.00003630	0.01939980	0.08127664	0.11125510
Sustainable Harvest Sector 1	30	2.67295101	5.96556815	2.52270202	4.76510605	0.96587585	0.31532637	3.22108149	6.40294382	4.35110313	5.73641170	4.67381419	0.82222986	6.07538462	8.41351804	7.28519039
Sustainable Harvest Sector 2	14	0.28812111	0.29347573	0.40165710	0.07151001	2.20948828	2.24516980	0.84146135	0.71550373	0.61479620	0.45961600	0.93029859	1.10566785	0.26110454	0.33427366	0.26502607
Sustainable Harvest Sector 3	70	16.45431014	9.19155572	29.91874848	32.18195071	11.05985642	7.43666217	8.55607607	28.70228915	25.53629888	13.53562739	4.99272245	17.32857563	38.16429030	33.47229065	23.92968571
Common Pool	500	1.84752910	3.26710426	0.69652564	1.08555845	1.52199661	19.26632120	4.39781555	1.86632955	2.22917496	0.82314712	4.94445461	12.00914341	0.55123171	0.79867295	0.63372597

* This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57.

Table 2. Estimated ACE (in 1,000 lb), by stock, for each sector for fishing year 2018.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	162	592	24	2,181	4,062	397	0	0	27	35	39	0	107	27	661	352	6,614
MCCS	5	20	77	330	615	1,223	6	1	29	345	137	11	24	17	1,412	633	8,807
MPB	1	3	9	15	28	216	0	0	3	41	13	0	3	0	195	99	1,377
NCCS	2	8	17	121	225	295	3	1	17	21	23	1	17	8	237	118	1,453
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	33	121	150	3,668	6,833	3,289	7	2	173	324	241	52	148	40	3,520	389	9,390
NEFS 3	4	15	80	17	32	1,312	0	0	53	72	31	0	55	5	179	195	3,268
NEFS 4	24	86	86	1,840	3,428	1,656	8	2	53	327	159	11	55	15	1,594	488	5,240
NEFS 5	3	10	0	280	522	1	5	20	2	15	10	7	0	137	3	6	35
NEFS 6	16	59	24	1,007	1,875	740	10	5	33	136	95	24	36	22	1,259	236	2,725
NEFS 7	7	26	7	465	866	114	13	2	20	26	17	21	19	9	85	34	375
NEFS 8	37	135	1	2,045	3,810	13	40	5	23	73	45	341	5	102	120	28	506
NEFS 9	75	272	24	3,867	7,203	1,424	94	8	93	338	172	525	23	205	2,146	385	5,245
NEFS 10	2	7	19	57	105	240	0	1	35	32	31	0	70	6	77	37	574
NEFS 11	2	8	99	13	24	593	0	0	21	72	35	0	16	0	466	285	7,435
NEFS 12	4	13	24	32	60	201	0	0	70	18	10	0	60	2	54	18	680
NEFS 13	69	252	7	6,918	12,885	202	129	20	78	295	170	287	24	190	1,016	130	2,160
NHPB	0	0	9	0	0	6	0	0	0	1	0	0	0	0	5	5	92
SHS 1	15	55	48	868	1,616	918	4	0	28	223	80	92	37	9	1,441	507	6,007
SHS 2	2	6	2	138	257	14	8	2	7	25	11	7	7	13	62	20	219
SHS 3	93	340	75	10,290	19,167	6,200	41	7	75	1,000	467	218	39	198	9,049	2,018	19,731
Common Pool	10	37	28	240	446	209	6	18	39	65	42	13	39	137	131	48	523
Sector Total	556	2,029	785	34,153	63,617	19,056	368	76	839	3,417	1,788	1,598	748	1,005	23,580	5,982	81,931

*This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57 as adjusted by reductions from overages in fishing year 2016.

#Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent potential allocations for each sector.

Table 3. Estimated ACE (in metric tons), by stock, for each sector for fishing year 2018.*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	74	268	11	989	1,843	180	0	0	12	16	18	0	49	12	300	160	3,000
MCCS	2	9	35	150	279	555	3	1	13	156	62	5	11	8	640	287	3,995
MPB	0	1	4	7	13	98	0	0	1	18	6	0	2	0	88	45	625
NCCS	1	4	8	55	102	134	1	0	8	10	10	0	8	4	107	54	659
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	15	55	68	1,664	3,100	1,492	3	1	78	147	110	23	67	18	1,597	176	4,259
NEFS 3	2	7	36	8	15	595	0	0	24	33	14	0	25	2	81	89	1,482
NEFS 4	11	39	39	835	1,555	751	4	1	24	148	72	5	25	7	723	221	2,377
NEFS 5	1	5	0	127	237	0	2	9	1	7	5	3	0	62	2	3	16
NEFS 6	7	27	11	457	850	336	5	2	15	61	43	11	16	10	571	107	1,236
NEFS 7	3	12	3	211	393	52	6	1	9	12	8	9	9	4	38	15	170
NEFS 8	17	61	1	928	1,728	6	18	2	10	33	20	155	2	46	55	13	229
NEFS 9	34	123	11	1,754	3,267	646	43	4	42	153	78	238	11	93	973	174	2,379
NEFS 10	1	3	9	26	48	109	0	0	16	15	14	0	32	3	35	17	260
NEFS 11	1	4	45	6	11	269	0	0	9	32	16	0	7	0	211	129	3,373
NEFS 12	2	6	11	15	27	91	0	0	32	8	5	0	27	1	25	8	309
NEFS 13	31	114	3	3,138	5,845	92	58	9	35	134	77	130	11	86	461	59	980
NHPB	0	0	4	0	0	3	0	0	0	0	0	0	0	0	2	2	42
SHS 1	7	25	22	394	733	416	2	0	13	101	36	42	17	4	653	230	2,725
SHS 2	1	3	1	63	117	6	4	1	3	11	5	3	3	6	28	9	99
SHS 3	42	154	34	4,667	8,694	2,812	19	3	34	453	212	99	18	90	4,105	916	8,950
Common Pool	5	17	13	109	202	95	3	8	18	29	19	6	18	62	59	22	237
Sector Total	252	920	356	15,491	28,856	8,643	167	34	381	1,550	811	725	339	456	10,696	2,713	37,163

*This table is based on fishing year 2017 sector rosters and catch limits proposed in Framework 57 as adjusted by reductions from overages in fishing year 2016.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent potential allocations for each sector.

BILLING CODE 3510–22–C

Granted Exemptions for Fishing Years 2017 and 2018

Previously Granted Exemptions for Fishing Years 2017 and 2018 (1–21)

We have already granted exemptions from the following requirements for fishing years 2017 and 2018: (1) 120-Day block out of the fishery required for Day gillnet vessels; (2) 20-day spawning block out of the fishery required for all vessels; (3) prohibition on a vessel hauling another vessel's gillnet gear; (4) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish day-at-sea (DAS); (5) limits on the number of hooks that may be fished; (6) DAS Leasing Program length and horsepower restrictions; (7) prohibition on discarding; (8) daily catch reporting by sector managers for sector vessels participating in the Closed Area (CA) I Hook Gear Haddock Special Access Program (SAP); (9) prohibition on fishing inside and outside of the CA I Hook Gear Haddock SAP while on the same trip; (10) prohibition on a vessel hauling another vessel's hook gear; (11) the requirement to declare an intent to fish in the Eastern U.S./Canada SAP and the CA II Yellowtail Flounder/Haddock SAP prior to leaving the dock; (12) gear requirements in the Eastern U.S./Canada Management Area; (13) seasonal restrictions for the Eastern U.S./Canada Haddock SAP; (14) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (15) sampling exemption; (16) prohibition on groundfish trips in the Nantucket Lightship Closed Area; (17) prohibition on combining small-mesh exempted fishery and sector trips in Southern New England; (18) limits on the number of gillnets for day gillnet vessels fishing outside the Gulf of Maine (GOM); (19) 6.5-inch minimum mesh size requirement for trawl nets to allow a 5.5 inch codend on directed redfish trips; (20) extra-large mesh requirement to target dogfish on trips excluded from at-sea monitoring in Southern New England and Inshore Georges Bank; and (21) requirement to carry a Vessel Monitoring System for Handgear A vessels fishing in a single broad stock area. A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable rules identified in Table 4.

TABLE 4—EXEMPTIONS GRANTED FOR FISHING YEARS 2017 AND 2018

Exemptions	Rulemaking	Date of publication	Citation
1–8, 12	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
9–11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
13–15	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
16	Fishing Year 2014 Sector Operations Final Rule	April 28, 2014	79 FR 23278
18, 19	Fishing Years 2015–2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
20	Framework 55 Final Rule	May 2, 2016	81 FR 26412
21	Fishing Years 2017–2018 Sector Operations Interim Final Rule	April 28, 2017	82 FR 19618
17	Fishing Years 2017–2018 Sector Operations Final Rule	August 18, 2017	82 FR 39363

NE Multispecies **Federal Register** documents can be found at *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/*.

New Sectors Exemption Proposed for Fishing Year 2018

Limit on the Number of Gillnets for Day Gillnet Vessels Fishing in the Gulf of Maine

Each year, vessels fishing with gillnet gear must declare as either a ''Day'' or ''Trip'' gillnet vessel. A Day gillnet vessel is limited in the number of nets it may fish, but can return to port while leaving the gear in the water. A Trip gillnet vessel is not limited in the number of nets it may fish, but must retrieve all of its gear each trip. For 2018, we received a request to exempt Day gillnet vessels fishing in the Gulf of Maine from the current 100-net limit. The exemption would allow vessels to fish up to 150 gillnets if at least 50 nets are 10-inch (25.4-cm) or larger mesh and those nets are fished east of 70 degrees West longitude (Figure 1). The 100-net limit would still apply in the portion of the GOM Regulated Mesh Area west of 70 degrees West longitude. The intent of the request is to increase opportunities for sector vessels to harvest monkfish, a healthy non-groundfish stock, while fishing on a groundfish trip.

This exemption request is a variation of an exemption we previously approved for Day gillnet vessels in the GOM. The original exemption allowed the use of 150 gillnets and the use of a single gillnet tag per net, as is currently allowed for sector vessels fishing in other areas. We withdrew approval of the original exemption in 2014 as part of the GOM cod emergency action (79 FR 67362; November 13, 2014) due to concerns about potential GOM cod catch from the additional gillnet effort. The new exemption proposed in this action is more restrictive than the original exemption in several ways. The new exemption would require the use of larger mesh nets, limit the geographic scope of any additional nets, and would not modify tagging provisions for nets fished in the GOM. These restrictions were developed to reduce any additional impacts to GOM cod and address the concerns underlying our withdrawal of the original exemption.

As proposed, the exemption would allow sector Day gillnet vessels to fish up to 150 gillnets in the GOM if at least 50 of those nets are 10-inch (25.4-cm) or larger mesh and fished east of 70 degrees West longitude. This exemption would not remove the 50 roundfish or ''stand up'' net limit in the GOM. Day gillnet vessels would still be required to tag each roundfish net with two gillnet tags and each flatfish or ''tied down'' net with a single gillnet tag. We do not intend to issue additional gillnet tags, so vessels would need to choose between fishing their full suite of roundfish nets or taking advantage of the extra nets available under this exemption. Keeping tagging provisions in place would maintain consistency and allow for better enforcement of the gillnet limits, including the 50 roundfish gillnet limit in the GOM and the overall 150 net limit.

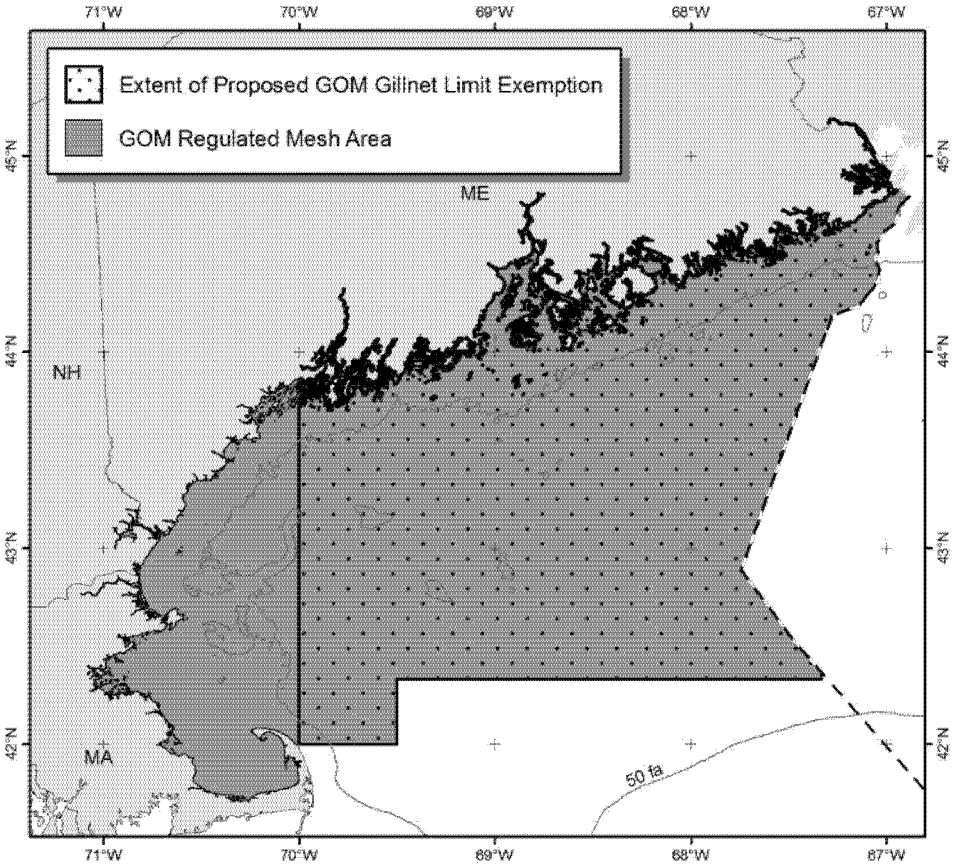
This exemption is intended to grant additional flexibility, increasing opportunities for Day gillnet vessels to target monkfish under existing monkfish limits, while fishing on sector trips in the GOM. The exemption could increase trip efficiency and revenue for sector vessels, but we still expect few vessels to use the exemption. Between 2013 and 2016, on average, fewer than 20 sector vessels fished with gillnet gear in the GOM, and in fishing year 2016 there were only 11 Day gillnet vessels in sectors that took a groundfish trip in the GOM. We expect only a subset of these vessels to use this exemption, and few of them to use it on all of their trips given the geographic limitation of the

exemption and underlying double tagging requirement for roundfish gillnets. We expect the number of trips will be limited. There may be impacts to other fisheries, groundfish stocks, and protected resources; however, our concerns for potential GOM cod catch in the previously approved exemption are addressed by requiring the use of 10-inch (25.4-cm) or larger mesh for any additional nets, and that they must be fished east of 70 degrees West longitude, which is expected to reduce the impacts on GOM cod. Initial analysis shows that fewer cod are likely to be caught with the larger mesh nets fished in the central and eastern GOM than would be encountered using smaller mesh or in areas of the western GOM. Thus, these provisions of the proposed exemption would likely reduce impacts to GOM cod. Most other groundfish are rarely encountered by extra-large mesh gillnets in the GOM, with the exception of white hake, pollock, and Atlantic halibut. Any increase in catch of these stocks is expected to be small proportional to the overall fishery, and would be attributed to a sector's available quota, or for halibut, to the commercial fishery quota.

In the 2015–2020 programmatic environmental assessment for sector operations, we analyzed potential impacts of allowing the use of 150 gillnets by sector vessels across all areas, including the GOM. The analysis showed that the exemption would potentially have a low negative impact on protected resources. We expect that this potential is further reduced because a relatively small number of vessels are likely to use this exemption, and even for those vessels, only on a subset of their sector trips. The overall declining trend in recent years in the number of gillnet vessels fishing in the GOM is also expected to minimize any impacts. Additionally, we expect the geographic extent of the exemption to mitigate impacts on protected resources given known observations of interactions. Vessels fishing under the exemption would not be exempt from any regulatory measures designed to limit gear interactions with protected resources, such as the mandated use of pingers or weak-links.

We are taking public comment on the proposed exemption in order to assist us in identifying any potential impacts and benefits of the exemption, were it to be granted. We are particularly interested in comments regarding the potential impacts on monkfish harvest and other groundfish species and how the exemption might impact the fishing behavior of gillnet vessels in the GOM.

Figure 1. Extent of Proposed Gulf of Maine Sectors Gillnet Limit Exemption



Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to

further consideration after public comment.

This proposed action is exempt from the procedures of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would allocate ACE to sectors for fishing year 2018 (May 1, 2018, through April 30, 2019) and approve a new regulatory exemption for sector vessels. Approved sectors are exempt from certain effort control regulations, like trip limits and days-at-sea, and fish under the sector provisions of the Northeast Multispecies FMP and their sector's harvest rules. This action is consistent with the groundfish catch limits proposed in a concurrent rulemaking to approve Framework Adjustment 57 to the FMP, and is expected to have positive impacts on fishing vessels and purchasers of seafood products.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The determination of whether the entity is large or small is based on the average annual revenue for the most recent 3 years for which data are available (from 2014 through 2016).

As of May 1, 2016 (beginning of fishing year 2016), NMFS had issued limited-access groundfish permits to 899 vessels. Each of these permits is eligible to join a sector or enroll in the common pool in fishing year 2018. Alternatively, each permit owner could also allow their permit to expire by failing to renew it. Over 60 percent of the total limited access groundfish permits are enrolled in a sector. Ownership data collected from permit holders indicates that there are 701 distinct business entities that hold at least 1 limited-access groundfish permit. Of these, 695 entities are categorized as small and 6 are categorized as large entities per the SBA guidelines. All 695 small entities would be directly regulated by this proposed action. Using the threshold of greater than 50 percent of gross sales from the sales of regulated groundfish, 116 entities are groundfish-dependent, all of which are small, and all of which are finfish commercial harvesting businesses.

This action would allocate quota to groundfish sectors for fishing year 2018 and approve a new regulatory exemption. Sectors must receive ACE each fishing year in order to operate and for its member vessels to fish. Sectors operate under a series of ''universal'' regulatory exemptions that exempt sector vessels from most of the effort controls in the FMP. This includes exemptions from days-at-sea, seasonal closures, and trip limits. These exemptions allow sector participants to maximize per-trip yields, more fully harvest healthy stocks, and time the market. Additionally, this action would approve a new regulatory exemption for sectors to fish additional nets in certain areas to increase fishing opportunities for monkfish, which is a healthy non-groundfish stock.

Overall, the measures proposed in Framework 57 are expected to have a positive economic effect on small entities. Because this proposed action would allocate ACE to groundfish sectors based on the Framework 57 specifications, along with approving a new regulatory exemption, this action is also expected to have a positive economic effect on small entities. This action would provide additional fishing opportunities, enhanced operational flexibility, and increased profits to fishermen. This is expected to translate into increased catch per unit effort and higher ex-vessel fish prices, which would lower marginal costs and increase profitability, compared to if no action was taken.

The proposed action is not expected to have a significant or substantial impact on small entities. The impacts on the regulated small entities identified in this analysis are expected to be positive relative to the no action alternative, which would prevent sector participants from fishing or require them to fish in the common pool fishery. In the common pool, most limited-access multispecies permit holders would be subject to days-at-sea, trip limits, gear restrictions, size limits, and closures intended to control overall fishing mortality. In addition, these effort controls would be subject to in-season modifications based on industry-wide landings. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities relative to taking no action. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Dated: March 19, 2018.

Samuel D. Rauch III,

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

[FR Doc. 2018–05919 Filed 3–22–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 57
Friday, March 23, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Wallowa-Whitman National Forest, Oregon; Powder River Watershed Mining Plans

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to process and respond to the mining Plans of Operations within the Powder River Watershed submitted to the Whitman Ranger District of the Wallowa-Whitman National Forest.

DATES: Written comments concerning the scope of the analysis must be received by April 23, 2018. The draft EIS is expected July 2018, and the final EIS is expected December 2018.

ADDRESSES: Send written comments and suggestions to Jeff Tomac, Whitman District Ranger, Wallowa-Whitman National Forest, 1550 Dewey Ave., Suite A, Baker City, OR 97814. Comments may also be sent via email to *comments-pacificnorthwest-wallowa-whitman-whitmanunit@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Sophia Millar, Interdisciplinary Team Leader, Wallowa-Whitman National Forest, Whitman Ranger District, 1550 Dewey Ave., Suite A, Baker City, OR 97814, Phone: (541) 263–1735.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Per the General Mining Law of 1872, the miner is entitled to conduct operations that are reasonably incident to exploration and development of mineral deposits on its mining claims pursuant to applicable U.S. laws and regulations and is asserting its right under the General Mining Law to develop, mine, and remove the mineral deposit subject to regulatory laws.

Purpose and Need

The purpose and need for action is to (1) respond to the proposed Plans of Operations (Plans) to conduct mining activities within the Powder River watershed; (2) ensure that the selected alternative, where feasible, would minimize adverse environmental impacts on National Forest System (NFS) surface resources; and (3) ensure that measures would be included that provide for reclamation of the surface disturbance.

Proposed Action

The Powder River Watershed Mining Plans analysis area is located on the Whitman Ranger District of the Wallowa-Whitman National Forest, approximately 14 miles southwest of Baker City, Oregon. The decision area will cover 22 proposed mining Plans within the Powder River Watershed, an analysis area encompassing approximately 126,831 acres of NFS lands in Baker County. Typically, each project would disturb and reclaim an area of approximately 1–10 acres annually.

This EIS will evaluate each of the 22 Plans and propose additional operational requirements for some or all of the Plans. The final Record of Decision (ROD) would identify which Plans will be approved, and any specific Plans that require further action prior to Plan approval.

Once the ROD is signed and issued, reclamation bonds and any 401 certifications deemed necessary to be consistent with the Clean Water Act would be presented to the Forest Service before the Plans are approved. PACFISH (which amended the WWNF Forest Plan in 1995) Minerals Management standard #1 requires a reclamation plan and reclamation bond for mineral operations in riparian habitat conservation areas (RHCAs).

Responsible Official

The Whitman District Ranger, Jeff Tomac, will be the responsible official for making the decision and providing direction for the analysis.

Nature of Decision To Be Made

The responsible official will decide whether or not to move forward with approving specific mining Plans within the Powder River Watershed Mining Plans analysis area. The responsible official will also decide whether or not to select the proposed action as stated or modified, or to select an alternative to it; any mitigation measures needed; and any monitoring that may be required.

Preliminary Issues

The interdisciplinary team has conducted field surveys and data research to identify preliminary issues of concern with this proposal. The primary concern is the potential for sediment or heavy metal discharges into streams from mining operations, potentially impacting water quality, and Endangered Species Act-listed bull trout and bull trout habitat (pools and temperature). Based on these preliminary issues and the level of activity proposed at some sites, there is the potential for significant impacts to some resources, therefore an EIS fits the scope of this analysis rather than an Environmental Assessment.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. Public participation is especially important at several points during the development of the EIS. The Forest Service is seeking information, comments, and coordination with Federal, State, and local agencies, and tribal governments, individuals or organizations who may be interested in or affected by the proposed action. The most useful comments to developing or refining the proposed action would be site-specific concerns and those that pertain to authorizing mining activities within the Powder River Watershed Mining Plans analysis area that meet the purpose of and need for action.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: February 16, 2018.

Glenn P. Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–06002 Filed 3–22–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Stewardship Mapping and Assessment Project (STEW–MAP)

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the renewal of the *Stewardship Mapping and Assessment Project (STEW–MAP)* information collection.

DATES: Comments must be received in writing on or before May 22, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Erika Svendsen, USDA Forest Service, NYC Urban Field Station, 431 Walter Reed Rd., Bayside, NY 11359. Comments also may be submitted by email to *esvendsen@fs.fed.us.* Please put ''Comments re: STEW–MAP'' in the subject line. Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the comments received at USDA Forest Service, USDA Forest Service, NYC Urban Field Station, 431 Walter Reed Rd., Bayside, NY 11359 during normal business hours. Visitors are encouraged to call ahead to 718–225–3061 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *esvendsen@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Erika Svendsen at 718–225–3061 x301. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Clearance for the Stewardship Mapping and Assessment Project (STEW–MAP).

OMB Number: 0596–0240.

Type of Request: Renewal.

Abstract: Local environmental stewardship groups are essential for ensuring the vibrancy of natural areas in cities, suburbs, towns, and rural areas, including National Forest lands and the surrounding areas. Natural areas provide a range of benefits and services including storm water management, air pollution removal, urban heat island mitigation, carbon storage, wildlife habitat, recreation opportunities, stress reduction, aesthetic beauty, noise reduction, increased property values, and reduced energy use. The work of civic environmental stewards leverages the efforts of local government officials in maintaining these resources, especially in lean budget times. Civic stewardship organizations, including nonprofits, faith-based groups, formal and informal community groups, and coalitions, are often involved in, for example, planting trees, organizing community gardens, offering environment-themed classes, engaging with local officials on behalf of the environment, monitoring plants or animals, and cleaning up nearby parks or natural areas. People who do this work are stewards of their local environments, even if they do not normally use the word ''steward'' or think of what they do as ''stewardship.''

The roles of civic environmental stewards and their levels of engagement and commitment are often not understood by land managers and other decision makers. This means that the valuable services they provide may not be recognized and built on to full advantage. In addition, stewards themselves may not be aware of others doing similar work in their area so there may be lost opportunities for collaboration between groups.

The purpose of this research is to gather information on civic stewardship groups and their efforts such as where they work, the types of projects they focus on, and how they are organize. This information will be summarized and made publicly available online for use by policy makers, land managers, environmental professionals, the general public, stewards themselves, and other natural resource management stakeholders.

There are three phases to a STEW–MAP project:

- Phase One (Census) is a census of stewardship groups in the target region, generating a master list of known stewardship groups and their contact information.
- Phase Two (Survey) is a survey which is distributed to all of the organizations identified in Phase One to collect information about what they work on, how their group is structured, where they work, and what other groups they collaborate with.
- Phase Three (Follow-Up Interviews) is follow-up interviews with key responding organizations identified during Phase Two to collect more detailed information about the organizations and their histories.

A primary goal of STEW–MAP is to visualize stewardship activities, which can span across the urban to rural landscape. The geographic information provided by stewardship groups on the survey (Phase Two) will allow the researchers to do a spatial analysis of where stewardship groups are working, identify ''gaps'' where little to no stewardship is being done, and provide locally relevant geographic information like what kinds of stewardship groups are working in particular places. This geographic information will be displayed on maps to show stewards, local land managers, policy makers, and other interested stakeholders how stewardship work is distributed across the region with the goal of encouraging collaboration, building innovative partnerships, increasing organizational capacities, and generally making stewardship efforts more effective.

Information from STEW–MAP will help planners, natural resource decision makers, land managers, and the general public work across property jurisdictions, management regimes and political boundaries to conserve, protect, and manage natural resources effectively. It will also be used to

enhance local resource management efforts by helping public officials, land managers, and civic stewards connect to local stewardship groups.

STEW–MAP is being led by researchers from the Forest Service in partnership with researchers from universities and nongovernment organizations. The exact makeup of the research team will vary from location to location where STEW–MAP is conducted. The Forest Service Research and Development branch is authorized to conduct basic scientific research to improve the health of forests and rangelands involving State, Federal, Tribal agencies, and private landowners across multiple jurisdictions including in urban areas. The study is aligned with the U.S. Department of Agriculture policy of an ''all-lands approach'' to resource management, which ''requires land managers to work across jurisdictions and land-use types, viewing forests landscapes as an integrated whole, both ecologically and socially'' (National Report on Sustainable Forests, 2010). This all lands approach applies to urban ecosystems as well. Our project goals are also consistent with the Forest Service, Urban and Community Forestry (UCF) program, which focus on urban forest ecosystems and the role of stewardship and trail connections to parks and public lands that promote health and sustainability for urban residents. This study seeks to identify opportunities for stewardship organizations to better collaborate and, thus, be more effective in the stewardship of all natural areas.

Due to local geographical and/or cultural differences, and to meet the needs of any particular collaborative effort, we may tailor the survey and interview questions to accommodate the unique requirements of individual communities.

Affected Public: Representatives from civic environmental stewardship groups, and from State, local, or Tribal Governments.

Estimate of Burden per Response: 15 to 60 minutes.

Estimated Annual Number of Respondents:

Phase One (Census): 600.

Phase Two (Survey): 15,000.

Phase Three (Follow-up Interviews): 300.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 7,925 hours.

Comment is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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 request toward Office of Management and Budget approval.

Dated: March 13, 2018.

Carlos Rodriguez-Franco,

Deputy Chief, Research & Development.

[FR Doc. 2018–06001 Filed 3–22–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[03/01/2018 through 03/04/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
PowerFilm, Inc	1287 XE Place, Ames, IA 50014.	3/1/2018	The firm manufactures thin-film solar products, including solar panels.
MRT Sureway, Inc. d/b/a Sureway Tool & Engineering Company.	2959 Hart Drive, Franklin Park, IL 60131.	3/2/2018	The firm manufactures metal display racks and other display furniture for the commercial display market.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2018–05894 Filed 3–22–18; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[03/05/2018 through 03/13/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
PrintSpace 3D, LLC	785 Pinehaven Street, Rexburg, ID 83440.	3/6/2018	The firm manufactures 3D printers.
Trans Tool, LLC	110 Connelly Street, San Antonio, TX 78203.	3/8/2018	The firm manufactures automotive tools and shop equipment, including cabinet washers, steel tanks and tables, and airless shot blasting machines.
Emdee International Enterprises, Inc.	3595 Clearview Parkway, Atlanta, GA 30340.	3/13/2018	The firm manufactures custom textiles, including drapery panels, bedding, pillows, table runners, and fabric lamp shades.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2018–05895 Filed 3–22–18; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results, Final Results of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than normal value during the period of review (POR) August 1, 2015, through July 31, 2016.

DATES: Applicable March 23, 2018.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone 202–482–2243.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on September 12, 2017.[1] In the *Preliminary Results,* we determined that GODACO Seafood Joint Stock Company (GODACO) did not act to the best of its ability in responding to Commerce's questionnaires and, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), Commerce applied an adverse inference in calculating a margin for GODACO.[2] Commerce also determined a margin for the companies subject to this review which demonstrated that they were separate from the Vietnam-wide entity.[3] Between February 5 and 15, 2018, interested parties submitted case and rebuttal briefs. On February 27, 2018, Commerce held a public hearing limited to issues raised in the case and rebuttal briefs. The period of review (POR) is August 1, 2015, through July 31, 2016.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.* These products are classifiable under tariff

[1] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Determination of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016,* 82 FR 42785 (September 12, 2017) (*Preliminary Results*) and Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2015–2016 Antidumping Duty Administrative Review (August 31, 2017) (PDM).

[2] *See* PDM.

[3] *Id.*

article code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100 of the Harmonized Tariff Schedule of the United States (HTSUS).[4] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached as the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as 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 in the CRU. 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 the electronic version 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,* and for the reasons explained in the Issues and Decision Memorandum, we have determined that a different rate is appropriate to apply to GODACO, which in turn results in a different rate applied to the separate rate companies from the margins assigned in the *Preliminary Results*.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Saigon-Mekong Fishery Co., Ltd. (SAMEFICO), and QVD[6] had no shipments during the POR. Consistent with Commerce's refinement to its assessment practice in non-market economy (NME) cases, we completed the review with respect to the above-named companies.[7] Based on the certifications submitted by these companies, we continue to find that they did not have any shipments during the POR. As noted in the ''Assessment Rates'' section below, Commerce intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Vietnam-Wide Entity

We noted in the *Preliminary Results* that a review was requested, but not rescinded, for Golden Quality Seafood Corporation (Golden Quality). Golden Quality failed to answer Commerce's antidumping duty questionnaire and is not eligible for separate rate status; thus, we find Golden Quality to be part of the Vietnam-wide entity, which is not under review. As Golden Quality is part of the Vietnam-wide entity, it will receive the Vietnam-wide entity's antidumping duty margin of $2.39/kg. Additionally, consistent with Commerce's practice to assign the Vietnam-wide rate to companies under review that do not submit separate rate certifications or applications and, thus, are not eligible for separate rate status, we are also assigning the Vietnam-wide entity's rate to Anvifish Joint Stock Company (Anvifish) and Thuan An Production Trading and Service Co., Ltd. (Tafishco).

Partial Rescission of Administrative Review

In accordance with 19 CFR 351.213(d)(3) and 19 CFR 351.401(f), and in accordance with our decision in Comment 7 of the Issues and Decision Memorandum, Commerce is rescinding this review with respect to An Giang Agriculture and Food Import-Export Joint Stock Company (Afiex), Bien Dong Seafood Co., Ltd. (Bien Dong) and Vinh Hoan Corporation (Vinh Hoan).

Final Results of the Review

The weighted-average dumping margins for the final results of this administrative review are as follows:

Exporter	Weighted-average margin (dollars/kilogram)[8]
GODACO Seafood Joint Stock Company	** 3.87
Cadovimex II Seafood Import-Export and Processing Joint Stock Company ***	7.74
Can Tho Import-Export Joint Stock Company, aka CASEAMEX *	3.87
Cuu Long Fish Joint Stock Company *	3.87
Dai Thanh Seafoods Company Limited *	3.87
Green Farms Seafood Joint Stock Company *	3.87
Hoang Long Seafood Processing Co., Ltd.***	7.74
Hung Vuong Group *	3.87
NTSF Seafoods Joint Stock Company *	3.87
Southern Fishery Industries Company, Ltd.	3.87
Vinh Quang Fisheries Corporation *	3.87

* These companies are separate rate respondents not individually examined.
** Although we find mandatory respondent GODACO to be eligible for a separate rate, its margin is based on adverse facts available (AFA).
*** Cadovimex II's and Hoang Long's rates are based on a finding of duty reimbursements.

[4] Until June 30, 2004, these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004, until December 31, 2006, these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007, until December 31, 2011, these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011, Commerce added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP'') that the subject merchandise may enter under: 1604.19.2000 and 1604 19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012, Commerce added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

[5] For a complete description of the scope of the order, *see* Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the Thirteenth Antidumping Duty. Administrative Review; 2015–2016,'' at 2–3 (Issues and Decision Memorandum), dated concurrently with and hereby adopted by this notice.

[6] These companies include QVD Food Co., Ltd., QVD Dong Thap Food Co., Ltd. and Thuan Hung Co., Ltd.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

[8] In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce will determine, and 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.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. Specifically, we calculated importer specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), Commerce will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

Commerce determines that the No Shipment Companies did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case numbers (*i.e.,* at each exporter's rate) will be liquidated at the Vietnam-wide rate.[9]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for 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 review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of $2.39 per kilogram; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also 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 occurred and the subsequent assessment of doubled antidumping duties. As noted above, and described in detail in the Issues and Decision Memorandum, Commerce has determined as adverse facts available, pursuant to sections 776(a) and (b) of the Act, that Cadovimex II and Hoang Long had their antidumping duties reimbursed during the POR.

Notification Regarding Administrative Protective Order

This notice also serves as a 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, 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 administrative reviews and notice in accordance with sections 751(a)(l) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: March 14, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

[FR Doc. 2018–05935 Filed 3–22–18; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also* Preliminary Decision Memo at 4–5.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: This action deletes products from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: April 22, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
7510–00–NIB–0240—Business Cards
7510–00–NIB–0265—Business Cards
7510–00–NIB–0266—Business Cards
Mandatory Source of Supply: Envision, Inc., Wichita, KS.
Contracting Activity: General Services Administration, New York, NY.
NSN(s)—Product Name(s):
6260–00–NIB–0005—Lighted Baton—Amber
6260–00–NIB–0006—Lighted Baton—InfraRed
6260–00–NIB–0008—Lighted Baton—Red
6260–00–NIB–0009—Lighted Baton—Green
6260–00–NIB–0010—Lighted Baton—Blue
6260–00–NIB–0011—Lighted Baton—Amber/Red
Mandatory Source of Supply: LC Industries, Inc., Durham, NC.
Contracting Activity: General Services Administration, New York, NY.

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2018–05926 Filed 3–22–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to the Procurement List:* April 22, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 12/15/2017 (82 FR 240) and 12/22/2017 (82 FR 245), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN(s)—Product Name(s):
MR 13100—Baking Value Pack
MR 13101—Muffin Pan, 6-Cup
MR 13102—Cake Pan, Square, 8″ x 8″
MR 13103—Cake Pan, Round, 9″
MR 13104—Muffin Pan, 12-Cup
MR 13105—Muffin Pan, Mini, 24-Cup
MR 13106—Cookie Sheet, Large, 11″ x 17″
MR 13107—Loaf Pan, 9.3″ x 5.3″
MR 13108—Cookie Sheet, Medium, 10″ x 15″
MR 13109—Cookie Tool, Scoop N' Cut
MR 13110—Cake Cutter, Slice N' Easy
MR 13111—Cookie Spatula, Slip N' Serve
MR 13112—Cookie Sheet, Small, 9″ x 13″
Mandatory for: The requirements of military commissaries and exchanges in accordance with the Code of Federal Regulations 41 CFR 51–6.4.
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.
Contracting Activity: Defense Commissary Agency.
NSN—Product Name: 6510–00–786–3736—Isopropyl Alcohol Impregnated Pad.
Mandatory Source of Supply: Lighthouse Works, Orlando, FL.
Mandatory for: Broad Government Requirement.
Contracting Activity: Defense Logistics Agency Troop Support.

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2018–05927 Filed 3–22–18; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; Native American and Alaska Native Children in School Program

AGENCY: Office of English Language Acquisition, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2018 for the Native American and Native Alaska Children in School Program, Catalog of Federal Domestic Assistance (CFDA) number 84.365C.

DATES:

Applications Available: March 23, 2018.

Deadline for Notice of Intent To Apply: April 12, 2018.

Deadline for Transmittal of Applications: May 7, 2018.

Deadline for Intergovernmental Review: July 6, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003).

FOR FURTHER INFORMATION CONTACT: Patrice Swann, U.S. Department of Education, 400 Maryland Avenue SW, Room 5C122, Washington, DC 20202. Telephone: (202) 401–4300. Email at *NAM2018@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program

The purpose of the Native American and Alaska Native Children in School (NAM) program is to award grants to eligible entities to develop and enhance capacity to provide effective instruction and support to Native American students, including Native Hawaiian and Native American Pacific Islander students, who are identified as English learners (ELs). The goal of this program is to support the teaching, learning, and

studying of Native American languages while also increasing the English language proficiency and academic achievement of students served.

Background

Through previous competitions, the NAM program has funded a range of grantees that are currently implementing 22 projects across the country. As we are focused on closing longstanding achievement and attainment gaps that have continued to grow, there is also a need to increase the knowledge of what practices work to effectively improve learning outcomes for Native American and Alaska Native ELs.

Congress, in the Native American Languages Act of 1990, recognized the fundamental importance of preserving Native American languages. This legislation provides that it is the policy of the United States to:

Preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.

25 U.S.C. 2903(1)

In addition, the legislation states that it is the policy of the United States to encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) Educational opportunity,

(C) Increased student success and performance,

(D) Increased student awareness and knowledge of their culture and history, and

(E) Increased student and community pride.

25 U.S.C. 2903(3)

This Federal policy is supported by growing recognition of the importance of native language preservation in facilitating educational success for Native students. In a 2007 study by Teachers of English to Students of Other Languages (TESOL), the majority of Native youth surveyed stated that they value their native language, view it as integral to their sense of self, want to learn it, and view it as a means of facilitating their success in school and life.[1] Collaborative efforts between educators, families, and communities, the study suggests, may be especially promising ways to ensure that all Native students have the critical opportunity to learn their native languages.

Not only is native language instruction critical for student engagement and fostering a rich sense of self, but research has shown that students who are bilingual have certain cognitive and social benefits that their monolingual peers may lack.[2] Additionally, for students who are classified as ELs, well-implemented language instruction educational programs (as defined in this notice), including dual language approaches, may result in ELs performing equal to or better than their peers in English-only language instruction programs. These approaches have shown promise in increasing language acquisition in English and native languages, and may also promote greater achievement in the academic content areas, including English language arts and mathematics.[3]

Therefore, to facilitate high-quality language instruction and academic success for Native American students who are classified as ELs, this competition includes an absolute priority for projects that will support the preservation and revitalization of Native American languages while also increasing the English language proficiency of the children served under the project.

In addition, the Department is interested in projects designed to promote literacy. Families play a critical role in preparing their children to enter kindergarten ready to succeed in school and in life. Research suggests that when families and schools work together and support each other in their respective roles, children have a more positive attitude toward school and experience more school success. Specifically, research has found that having parents reinforce specific literacy skills is effective in improving children's literacy.[4] Accordingly, this notice includes one invitational priority related to promoting literacy. Addressing this priority may include activities to build greater and more effective family engagement in the education of their children.

In addition, in order to grow the evidence available on effective ways to support Native American and Alaska Native ELs, we include a selection criterion to evaluate the extent to which an applicant's proposed project design is supported by a logic model that connects key project components to outcomes relevant to the program's purpose. We encourage NAM program grantees to use a portion of their budgets to conduct high-quality evaluations of their projects. Such evaluations help ensure that projects contribute to expanding the knowledge base on effective language instruction educational programs, including dual language practices, that prepare Native American and Alaska Native ELs to achieve college, career, and life success.

Priorities: This notice includes one absolute priority and one invitational priority. The absolute priority is from section 3127 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (20 U.S.C. 6848).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Projects that support the teaching, learning, and studying of Native American languages while also increasing the English language proficiency of the children served.

Invitational Priority: For FY 2018 and any subsequent years in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets an invitational priority a competitive or absolute preference over other applications.

This priority is:

Promoting Literacy

Projects that are designed to address the following priority area: Providing families with evidence-based (as defined in 34 CFR 77.1) strategies for promoting literacy. This may include providing families with access to books or other physical or digital materials or content about how to support their child's reading development, or providing family literacy activities (as defined in section 203(9) of the Workforce Innovation and Opportunity Act).

Definitions: The following definitions are from 34 CFR 77.1, and sections 3201 and 8101 of the ESEA (20 U.S.C. 7011 and 7801), and apply to the priorities, selection criteria, and performance measures in this notice. The source of

[1] Romero-Little, M.E., McCarty, T.L., Warhol, L., and Zepeda, O. (2007). Language policies in practice: Preliminary findings from a large-scale study of Native American language shift. TESOL Quarterly 41:3, 607–618.

[2] Valentino, R.A., and Reardon, S.F. (2015). Effectiveness of four instructional programs designed to serve English language learners: Variation by ethnicity and initial English proficiency. Educational Evaluation and Policy Analysis, doi: 10.3102/0162373715573310.

[3] Lindholm-Leary, K.J. (2001). Dual-language education (Vol. 28). Multilingual Matters.

[4] Henderson, A.T. & Mapp, K.L. (2002). A new wave of evidence: The impact of school, family and community connections on student achievement. Austin: SEDL.

each definition is noted in parentheses following the text of the definition.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure. (34 CFR 77.1)

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

English learner, when used with respect to an individual, means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a Native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the State's challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society. (Section 8101 of the ESEA)

Language instruction educational program means an instruction course—

(A) In which an English learner is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic achievement standards; and

(B) That may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language. (Section 3201 of the ESEA)

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Note: Applicants may use resources such as the Pacific Education Laboratory's Education Logic Model Application (*http://relpacific.mcrel.org/resources/elm-app*) to help design their logic models.

Native Hawaiian or Native American Pacific Islander native language educational organization means a nonprofit organization with—

(A) A majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

(B) Not less than five years successful experience in providing educational services in traditional Native American languages. (Section 3201 of the ESEA)

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project. (34 CFR 77.1)

Program Authority: 20 U.S.C. 6822

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,300,000.

The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $275,000–325,000 per year.

Estimated Average Size of Awards: $287,500.

Estimated Number of Awards: 8.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities, when they operate elementary, secondary, or postsecondary schools primarily for Native American children (including Alaska Native children), are eligible applicants under this program:

(a) Indian Tribes.

(b) Tribally sanctioned educational authorities.

(c) Native Hawaiian or Native American Pacific Islander native language educational organizations.

(d) Elementary schools or secondary schools that are operated or funded by the Department of the Interior's Bureau of Indian Education, or a consortium of these schools.

(e) Elementary schools or secondary schools operated under a contract with or grant from the Bureau of Indian Education in consortium with another such school or a Tribal or community organization.

(f) Elementary schools or secondary schools operated by the Bureau of Indian Education and an IHE, in consortium with an elementary school or secondary school operated under a contract with or a grant from the Bureau of Indian Education or a Tribal or community organization.

Note: Eligible applicants applying as a consortium should read and follow the regulations in 34 CFR 75.127 through 75.129.

Under section 3112(c) of the ESEA, EL students served under NAM grants must not be included in the child count submitted by a school district under section 3114(a) for purposes of receiving funding under the English Language Acquisition State Grants program.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Equitable Participation by Public and Private School Students and Educational Personnel in an ESEA Title III Program:* An entity that receives a grant under the NAM program must provide for the equitable participation of private school children and their teachers or other educational personnel.

To ensure that grant program activities address the needs of private school children, the applicant must engage in timely and meaningful consultation with appropriate private school officials during the design and development of the program. This consultation must take place before the applicant makes any decision that affects the opportunities for participation by eligible private school children, teachers, and other educational personnel. Administrative direction and control over grant funds must remain with the grantee. (See section 8501 of the ESEA, Participation by Private School Children and Teachers.)

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the NAM competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because (consistent with the process followed in the FY 2016 NAM competition) we plan to post on our website the full application narrative sections of all applications, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative [Part III] to no more than 35 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Quality of the project design.* (up to 40 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replications of project activities or strategies including information about the effectiveness of the approach or strategies employed by the project.

(3) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)).

(b) *Quality of project personnel.* (up to 10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(2) The qualifications, including relevant training and experience, of key project personnel.

(c) *Quality of the management plan.* (up to 30 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and the principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(d) *Quality of the project evaluation.* (up to 20 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

2. *Review and Selection Process:* The Department will screen applications that are submitted for NAM grants in accordance with the requirements in this notice and determine which applications meet the eligibility and other requirements. Peer reviewers will review all eligible applications for NAM grants that are submitted by the established deadline on the four selection criteria.

Applicants should note, however, that we may screen for eligibility at multiple points during the competition process, including before and after peer review; applicants that are determined to be ineligible will not receive a grant award regardless of peer reviewer scores or comments. If we determine that a NAM grant application does not meet a NAM eligibility requirement, the application will not be considered for funding.

We remind potential applicants that in reviewing applications in any

discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www2.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) The Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance and Results Act (GPRA), Federal departments and agencies must clearly describe the goals and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress made, and regularly report on achievement. One important source of program information on successes and lessons learned is the project evaluation conducted under individual grants.

(a) *Measures.* The Department has developed the following GPRA performance measures for evaluating the overall effectiveness of the NAM program:

- *Measure 1:* The number and percentage of English learners (ELs) served by the project who score proficient or above on the State reading assessment.
- *Measure 2:* The number and percentage of ELs served by the project who have attained proficiency in English as measured by the State-approved English language proficiency assessment.
- *Measure 3:* The number and percentage of students participating in the Native language program who are making progress in learning a Native language, as determined by each grantee, including through measures such as performance tasks, portfolios, and pre- and post-tests.

(b) *Baseline data.* Applicants must provide baseline data for each of the GPRA performance measures listed in paragraph (a) and include why each proposed baseline is valid; or, if the applicant has determined that there are no established baseline data for a particular performance measure, explain why there is no established baseline and explain how and when, during the project period, the applicant will establish a valid baseline for the performance measure. 34 CFR 75.110.

(c) *Performance measure targets.* In addition, the applicant must propose in its application annual targets for the measures listed in paragraph (a). Applications must also include the following information as directed under 34 CFR 75.110(b) and (c):

(1) Why each proposed performance target (as defined in this notice) is ambitious (as defined in this notice) yet achievable compared to the baseline for the performance measure.

(2) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data.

(3) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

(d) Performance Reports. All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures. The Department will consider these data in making annual continuation awards.

(1) The performance reports for all NAM 2018 grantees must include the following project performance data (34 CFR 75.253, 75.590, 75.591, and 75.720):

- The number of students who are eligible to participate in the program;
- The number of participants in the program; and
- The number of participants who met the performance target.

(2) The performance reports for the NAM 2018 grantees that addressed the promoting literacy priority must also include:

- The number of family literacy activities including the number of or access to books or other physical or digital materials or content that they provided.

(e) *Department Evaluations.* Consistent with 34 CFR 75.591, grantees funded under this program must comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 20, 2018.

Jose Viana,

Assistant Deputy Secretary and Director, Office of English Language Acquisition.

[FR Doc. 2018–05961 Filed 3–22–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Solid State Power Substation Roadmap

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability (OE), is seeking comments and information from interested parties to inform its development of a Solid State Power Substation (SSPS) Roadmap. An SSPS is defined as the strategic integration of high voltage power electronic converters in substations to provide enhanced capabilities and support the evolution of the grid. SSPS technology can overcome some of the current limitations within substations by enabling control of real and reactive power flows, management of voltage transients and harmonic content, and the ability to increase the flexibility, resiliency, and security of the electric power system.

DATES: Comments must be received on or before May 7, 2018. An informational webinar will be held on Thursday, March 29th, 2018 from 1:00 p.m. to 2:00 p.m. ET to discuss the draft SSPS Roadmap in more detail and provide information on this RFI.

ADDRESSES: Comments can be submitted by any of the following methods.

Email: DOE.SSPS.Roadmap@hq.doe.gov, whereas the subject line of the message is ''SSPS Roadmap Comment.'' Please provide your full name, title, and organization, along with your comments in the Excel spreadsheet provided and name the file ''Your first and last name—SSPS Roadmap Comment.''

Mail: Kerry Cheung, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 6E–092, 1000 Independence Avenue SW, Washington, DC 20585. *Note:* Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email.

Web page: The draft SSPS Roadmap, Excel spreadsheet for comments, and information on the upcoming webinar can be found on the following web page: *https://energy.gov/oe/articles/solid-state-power-substation-roadmap-request-information*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Kerry Cheung, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585 at *kerry.cheung@hq.doe.gov,* 202–586–4819.

SUPPLEMENTARY INFORMATION:

I. Background

Substations are critical points within the vast U.S. power grid, serving a number of functions important to the safe, reliable, and cost-effective delivery of electricity. Substations serve as the entry point to the grid for electric power generators as well as the exit point for large industrial customers. Substations also form the boundaries between the high voltage transmission network and the distribution system, enabling the network to reconfigure to ensure stability and reliability, and to regulate power quality for down-stream

electricity customers. As the electric power system continues to evolve, with stakeholders integrating higher amounts of variable renewable generation, deploying electric vehicles and associated charging infrastructure, and connecting more dynamic end-use devices and subsystems, substations will need to evolve as well. These critical nodes will need to continue providing their traditional functions as well as new functions and capabilities required in a future grid.

The SSPS Roadmap will present a path for the strategic integration of high voltage power electronic converters in substations to provide enhanced capabilities and support the evolution of the grid. Ultimately envisioned as a modular, scalable, flexible, and adaptable power block that can be used within all substations, SSPS converters will serve as power routers or hubs that have the capability to electrically isolate system components and provide bidirectional alternating current or direct current power flow control from one or more sources to one or more loads—indifferent to magnitude and frequency. Deployment of SSPS technology within substations can facilitate evolution of the grid by enabling better asset utilization, increasing system efficiency, enhancing security and resilience, and easing the integration of distributed energy resources and microgrids.

II. Request for Information

The draft SSPS Roadmap was developed by the OE Transformer Resilience and Advanced Components program with support from the Savannah River National Laboratory. The roadmap is structured to provide the context, rationale, and potential benefits of utilizing SSPS technology, and articulates a research and development pathway to accelerate maturation of SSPS. It aims to capture the state-of-the-art in critical enabling technologies, highlight research gaps and opportunities, and align disparate activities across the stakeholder communities to realize the SSPS vision.

This RFI provides the public, industry, and interested stakeholders, the opportunity to play an important role in defining and refining the SSPS vision and the potential technology development pathway. The intent of this RFI is to solicit input concerning the benefits offered by SSPS technology, the application areas where SSPS technology can provide a value proposition, the current state-of-the-art, and the gaps that are most critical to fill. The information obtained will be public and is meant to be used by DOE to guide and inform research and development activities. Please provide your comments next to the relevant questions in the Excel spreadsheet and supporting information if noted, including studies, reports, references, data, and examples relevant to SSPS.

SSPS Roadmap Questions

Chapter 1–2: Introduction and Conventional Substations

What issues and concerns not captured in the roadmap most deeply impact the ability of substations to meet the demands of an evolving grid? What are additional challenges faced by utilities that would necessitate power electronic converters in substations?

Are there any other issues or comments regarding these Chapters?

Chapter 3–4: Solid State Power Substations and SSPS Technology Development Pathway

Is there evidence of a growing need for power electronic converters in substations? If so, in what capacity? What specific challenges would the use of power electronic converters address?

Comments are requested on the SSPS vision and the three classification of SSPS converters articulated in the roadmap, as well as on the defining feature and functions and the voltage and power ratings.

Comments are requested on the SSPS technology development pathway presented in the roadmap. For each classification of SSPS converters, are there other potential applications that have not been captured?

What are additional benefits of using SSPS converters that should be captured?

Are there any other issues or comments regarding these Chapters?

Chapter 5: SSPS Technology Challenges, Gaps, and Goals

Comments are requested on the R&D challenges identified in the roadmap and their associated goals. Are they sufficiently aggressive and appropriate to realize the defining feature and functions for each classification of SSPS converter? What R&D challenges not yet identified would prevent SSPS technologies from being realized, as envisioned? For these additional R&D challenges, what would be the associated goals for each classification of SSPS converter?

Comments are requested on the state-of-the-art and the research gaps identified in the roadmap for each of the R&D challenges. What on-going work, that can be publicly shared, should be reflected in the state-of-the-art? What additional gaps needs to be highlighted to address the R&D challenges identified? What specific actions will need to be taken in the near-, mid-, and long-term to sufficiently address the gaps identified?

What additional non-technical challenges are there that would prevent SSPS converters from being accepted by industry? What additional standards would be relevant to SSPS technology, as envisioned? What are potential market or regulatory barriers that will need to be addressed?

Are there any other issues or comments regarding this Chapter?

General Comments

Comments are requested on the technology topic described in the roadmap. What is the appropriate Federal role in advancing this technology area? What are some organizational roles in helping to advance this technology concept? What amount of resources would be required to fully implement the roadmap?

Issued in Washington, DC, on March 16, 2018.

Bruce Walker,

Assistant Secretary, U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2018–05940 Filed 3–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case No. 2017–011]

Notice of Petition for Waiver of Big Ass Solutions (BAS) From the Department of Energy Ceiling Fan Test Procedure, and Grating of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, notice of grant of an interim waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from Big Ass Solutions (BAS) seeking an exemption from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the efficiency of ceiling fans under appendix U (appendix U). BAS seeks to use an alternate test procedure to address issues involved in testing certain basic models identified in its petition. According to BAS, testing at low speed for the low-speed small-diameter ceiling fan basic models identified in the petition, may cause BAS undue hardship in meeting the stability requirements contained in

appendix U. Consequently, BAS recommended relaxing the low speed stability criteria from DOE's requirement of 5 percent to 10 percent. This notice also grants BAS an interim waiver from the DOE's ceiling fan test procedure for its specified basic models, subject to use of the alternative test procedure as set forth in this notice. DOE solicits comments, data, and information concerning BAS's petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the BAS petition until April 23, 2018.

ADDRESSES: You may submit comments, identified by case number ''2017–011'', and Docket number ''EERE–2017–BT–WAV–0049,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: BASFan2017WAV0049@ee.doe.gov.* Include the case number [Case No. 2017–011] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. 2017–011, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Room 6055, Washington, DC 20024. Please submit one signed original paper copy.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-WAV-0049.* The docket Web page will contain simple instruction on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. E-mail: *Elizabeth.Kohl@hq.doe.gov.* Telephone 202–586–7796.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes ceiling fans that are the subject of this notice.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs during a representative average use cycle or period of use, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for ceiling fans is contained in 10 CFR part 430, subpart B, appendix U (referred to in this notice as ''appendix U'').

DOE's regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when: The basic model for which the petition for waiver was submitted contains one or more design characteristics that (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedure to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. Petition for Waiver of Test Procedure and Application for Interim Waiver

On June 14, 2017, BAS filed a petition for waiver and an application for interim waiver from the test procedure applicable to ceiling fans set forth in 10 CFR part 430, subpart B, appendix U. According to BAS, testing at low speed for the basic models listed in the petition,[3] may cause BAS undue hardship in meeting the requirements of the stability requirements contained in appendix U. Consequently, in its petition, BAS offered two alternate test procedures for determining the stability criteria for testing low-speed small-diameter ceiling fans at low speed: (1) BAS's preferred method, which would require BAS to employ a stability criteria using airflow instead of air velocity measurements, and (2) BAS's alternate method, which would require relaxing the low speed stability criteria from DOE's requirement of 5 percent to 10 percent. BAS initially stated that this second method is not preferred because it could add significant variability to the

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA), Public Law 114–11 (April 30, 2015).

[3] The specific basic models for which the petition applies are ceiling fan basic models Isis F–IS2–0601S4 and Isis F–IS2–0601. These basic model names were provided by BAS in its June 2017 petition.

calculated airflow on low speed. BAS also requests an interim waiver from the existing DOE test procedure.

However, by email dated December 6, 2017, BAS withdrew their preferred method for modifying the stability criteria from consideration. Instead, BAS requested that DOE consider their alternative method as their recommendation for the alternate test procedure.[4]

DOE understands that the basic models identified in BAS's petition cannot be tested under the DOE test procedure because at the lower operating speeds for these fans, air speed is so low that the acceptable variance under the stability criteria (often less than 2 feet per minute) falls below the required accuracies for air velocity sensors in section 3.2 of the DOE test procedure. DOE also understands that absent an interim waiver, BAS's products cannot be tested and rated according to the DOE test procedure, and BAS is unable to advertise performance data for these models. DOE has reviewed the alternate procedure suggested by BAS and concludes that relaxing the stability criteria for low speed will allow for the accurate measurement of efficiency of these products, while alleviating the testing problems associated with BAS's implementation of ceiling fan testing for the basic models specified in its petition. Further discussion on DOE's review of the alternate test procedure are provided in section IV of this notice. Consequently, DOE has determined that BAS's petition for waiver will likely be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant BAS immediate relief pending a determination of the petition for waiver.

III. Summary of Grant of an Interim Waiver

DOE has reviewed the manufacturer specifications and test data provided by BAS and agrees that it demonstrates that the basic models specified in the petition cannot be tested under the DOE test procedure because, when testing the basic models at low speed, the air speed is so low that the acceptable variance under the stability criteria (often less than 2 feet per minute) falls below the required accuracies for air velocity sensors in section 3.2 of the DOE test procedure. DOE compared BAS's test data to DOE's own test data from previous rulemakings and observed that the air velocities at low speed for the new BAS basic models are much lower than the test data previously evaluated. DOE's understanding is that the primary purpose of low speed for the basic models included in BAS's petition is to mix air in the room. Achieving the desired mixing effect requires much lower airflow that creates highly variable airflow patterns in the room. These atypically variable airflow patterns make it hard for the ceiling fan to achieve the stability criteria required by the DOE test procedure.

For the reasons stated above, DOE is granting BAS's application for interim waiver from testing for its specified ceiling fan basic models. The substance of DOE's Interim Waiver Order is summarized.

BAS is required to use the alternate test procedure set forth in this notice to test and rate the ceiling fan basic models listed in the petition (Isis F–IS2–0601S4, Isis F–IS2–0601, Isis F–IS2–0401L8S4, Isis F–IS2–0401L8, Isis F–IS2–0401I06L8S4, Isis F–IS2–0401I06L8, Isis F–IS2–0501L8S4 and Isis F–IS2–0501L8). BAS is permitted to make representations about the ceiling fan efficiency of these basic models for compliance, marketing, or other purposes to the extent that such products have been tested in accordance with the provisions set forth in the alternate test procedure and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.32.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. BAS may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g). In addition, DOE notes that granting of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429. See also 10 CFR 430.27(a) and (i).

The interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h). Furthermore, this interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may rescind or modify a waiver or interim waiver at any time upon a determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. See 10 CFR 430.27(k)(1). Similarly, BAS may request that DOE rescind or modify a waiver or interim waiver if BAS discovers an error or determines that the waiver is no longer necessary or for other appropriate reasons. 10 CFR 430.27(k)(2).

IV. Alternate Test Procedure

Under EPCA, manufacturers may not make representations with respect to the energy use or efficiency of a covered product unless the basic model has been tested in accordance with the applicable DOE test procedure and the representation fairly discloses the results of such testing. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to the regulations applicable to waivers from applicable test procedures at 10 CFR 430.27, DOE will consider setting an alternate test procedure for BAS in a subsequent Decision and Order.

In its petition, BAS proposes that the basic models listed in the petition be tested according to the test procedure for ceiling fans prescribed by DOE at 10 CFR part 430, subpart B, appendix U, except that the stability criteria at low speed for low-speed small-diameter ceiling fans be modified to either of the recommended alternate test procedures as follows:

(1) Replace the stability criteria to allow a percentage variation around airflow, instead of average air velocity, between two consecutive tests. Therefore, the suggested test procedure should instead state: ''In a successive set of measurements, the lower recorded value for airflow multiplied by 1.03 is greater than or equal to the higher recorded value for airflow, or these airflow measurements vary less than 15 cfm'' (preferred), OR

(2) Relax the current low speed stability criteria tolerances such that the average air velocity measurements for each sensor varies by less than 10 percent, instead of 5 percent, compared to the average air velocity measured for the same sensor in a successive set of air velocity measurements (alternative).

However, by email dated December 6, 2017, BAS withdrew their preferred method for modifying the stability criteria. Instead, BAS requested that DOE consider their alternative method as their recommendation for the alternate test procedure.

[4] A copy of the email is available at *regulations.gov*, under docket number EERE–2017–BT–WAV–0049.

DOE reviewed both alternate test procedures and preliminarily concluded that the BAS alternate test procedure of applying stability criteria to airflow instead of air velocity could allow a greater variation in airflow and efficiency results between multiple tests of the same fan. Under the current DOE test procedure, air velocity is measured at each sensor along the sensor arm, and airflow is calculated based on these measurements. The air velocity measurements indicate both the amount and location of air provided by the fan within the effective area (i.e., the air profile). DOE found that large variations in air profile often indicate test room instability (e.g., localized temperature gradients that effect airflow). Applying stability criteria to the air velocity measurements ensures that successive sets of measurements result in similar air profiles, which is indicative of test room stability. On the other hand, DOE observed that stability criteria applied only to airflow could be met with large variations in air profile (i.e., at unstable test room conditions). This allows for airflow, and in turn fan efficiency, to vary significantly between multiple tests of the same fan because stable airflow can be achieved at varied test room conditions.

DOE also evaluated whether increased tolerances for the air velocity stability criteria for low speed tests could be used to reduce test burden without materially affecting the results of the test procedure. Specifically, DOE used test data from the previous rulemaking to compare the airflow and efficiency results using the current test procedure and the alternate test procedure. DOE found that increasing the stability criteria to 10 percent for low speed would allow more fans to meet the stability criteria and reduce the number of successive measurements needed to do so without materially changing the efficiency results of the test procedure. Under this approach, the section of the test procedure would read as follows:

3.3.2 Airflow and Power Consumption Testing Procedure

Measure the airflow (CFM) and power consumption (W) for HSSD ceiling fans until stable measurements are achieved, measuring at high speed only. Measure the airflow and power consumption for LSSD ceiling fans until stable measurements are achieved, measuring first at low speed and then at high speed. Airflow and power consumption measurements are considered stable for high speed if:

(1) The average air velocity for all axes for each sensor varies by less than 5% compared to the average air velocity measured for that same sensor in a successive set of air velocity measurements, and

(2) Average power consumption varies by less than 1% in a successive set of power consumption measurements.

Airflow and power consumption measurements are considered stable for low speed if:

(1) The average air velocity for all axes for each sensor varies by less than 10% compared to the average air velocity measured for that same sensor in a successive set of air velocity measurements, and

(2) Average power consumption varies by less than 1% in a successive set of power consumption measurements.

V. Summary and Request for Comments

Through this notice, DOE announces receipt of BAS's petition for waiver from the DOE test procedure for certain basic models of BAS ceiling fans, and grants BAS an interim waiver from the test procedure for the ceiling fan basic models listed in BAS's petition. DOE is publishing BAS's petition for waiver pursuant to 10 CFR 439.27(b)(1)(iv). BAS provided confidential performance information that is not included in this notice.

DOE solicits comments from interested parties on all aspects of the petition, including the alternate test procedures offered by the petitioner. DOE seeks comment on whether either of BAS' alternative test procedures would more accurately or fully comply with the EPCA test procedure requirements that a test procedure measure the energy use or energy efficiency of ceiling fans during a representative use cycle or period of use, and not be unduly burdensome to conduct. DOE seeks comment on whether the alternate test procedure of applying stability criteria to airflow instead of air velocity a greater variation in airflow and efficiency results between multiple tests of the same fan. DOE also seeks comment on whether use of the test method specified in this interim waiver would result in variability in the calculated airflow, and if so, to what extent.

Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Taylor Sawyer <*tsawyer@bigasssolutions.com*>, Big Ass Solutions, 2348 Innovation Drive, Lexington, KY 40511. All comment submissions to DOE must include the Case Number 2017–011 for this proceeding. Submit electronic comments in Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on March 16, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Big Ass Solutions
2348 Innovation Drive
Lexington, KY 40511
Contact: Taylor Sawyer. (859) 629–6203/*tsawyer@bigasssolutions.com*
June 14, 2017

Via Electronic Mail

Submitted To:
Mr. John Cymbalsky
Ms. Ashley Armstrong
Office of Energy Efficiency and Renewable Energy
Building Technologies Program
EE–2J U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC, 20585
AS_Waiver_Requests@ee.doe.gov

Submitted by:
Big Ass Solutions
2348 Innovation Drive
Lexington, KY 40511
Contact: Taylor Sawyer. (859) 629–6203/tsawyer@bigasssolutions.com

Re: Petition to waive select provisions under Test Procedures for Ceiling Fans

Dear Mr. Cymbalsky and Ms. Armstrong,

Big Ass Solutions respectfully requests a waiver of one element in the Test Procedures for Ceiling Fans, finalized by DOE on July 25, 2016. The compliance date for representations made with respect to the energy use or efficiency of ceiling fans under this final rule was January 23, 2017. The docket number is EERE–2013–BT–TP–0050.

It has come to our attention that the stability requirements contained in the

final test procedure, when tested at low speed for certain small-diameter ceiling fan models, may cause Big Ass Solutions undue hardship in meeting the requirements of the test procedure.

Details

The final rule includes a specification for the stability criteria of the sensors used on small-diameter ceiling fans to evaluate airflow and power consumption:

Airflow and power consumption measurements are considered stable if: (1) the average air velocity for all axes for each sensor varies by less than 5% compared to the average air velocity measured for that same sensor in a successive set of air velocity measurements, and (2) average power consumption varies by less than 1% in a successive set of power consumption measurements.

When Big Ass Solutions initiated testing, we discovered that we are unable to meet this stability requirement at the lower operating speeds of a certain fan containing design characteristics that prevent testing per the current DOE test procedures. The average air speed is so low, that the acceptable variance under the stability criteria above is often less than 2 feet per minute, which falls below the required accuracies for airflow sensors that is stated in section 3.2 of the Final Rule. The measured velocity at this point also falls below the calibrated ranges of our two models of airflow sensors, (~30 – 1969 fpm) and (~30 – 196 fpm), which are in accordance with the requirements of the DOE test method and similar to sensors used at other small-diameter fan test labs. We have run several different tests and contracted an independent test lab to conduct additional testing, and all testing appears to have the same issue with stability at very low airspeeds, even with the use of two sets of sensors with different calibrated ranges.

An example test for stability we have conducted is as follows:

DOE TEST METHOD FOR LSSD

[Fans Stability Verification]

Sensor position	Sensor	Average air velocity (fpm)		Average	a/b	Stability? 0.95 ≤ (a/b) ≤1.05	Range (fpm)
		1a	1b				
1	BAF1114	13.27	14.55	13.91	0.91	Yes	1.39
2	BAF1119	13.29	14.74	14.02	0.90	Yes	1.40
3	BAF1115	13.35	13.44	13.39	0.99	Yes	1.34
4	BAF1122	13.27	13.56	13.41	0.98	Yes	1.34
5	BAF1118	15.42	15.80	15.61	0.98	Yes	1.56
6	BAF1110	15.02	14.01	14.52	1.07	Yes	1.45
7	BAF1113	13.10	13.24	13.17	0.99	Yes	1.32
8	BAF1121	11.17	14.71	12.94	0.76	No	1.29
9	BAF1111	7.77	12.52	10.15	0.62	No	1.01
10	BAF1120	16.12	19.57	17.85	0.82	No	1.78

While we are moving forward with testing on other BAS products not affected by this issue, the potential for future innovative fan products with blade spans under 7ft to become burdened by this may be substantial.

Big Ass Solutions currently manufactures a series of affected small-diameter HVLS fans with a blade spans of 6ft and markets them as Isis model Big Ass Fans. The two basic model Big Ass Fans found below, have physical and mechanical characteristics that meet the criteria for LSSD ceiling fan blade thickness and tip speed. Big Ass Solutions has included data detailing the exactness of this model's LSSD classification eligibility.

Isis, Commercial Fan Kit—4ft, 110–125 Volt/1 Phase; Direct Mount; Plug Winglets—F–IS2–0401L8S4

Isis, Commercial Fan Kit—4ft, 110–125 Volt/1 Phase—F–IS2–0401L8

Isis, Commercial Fan Kit—4′6″, 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0401I06L8S4

Isis, Commercial Fan Kit—4′6″, 110–125 Volt/1 Phase—F–IS2–0401I06L8

Isis, Commercial Fan Kit—5ft, 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0501L8S4

Isis, Commercial Fan Kit—5ft, 110–125 Volt/1 Phase—F–IS2–0501L8

Isis, Commercial Fan Kit—6ft, 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0601S4

Isis, Commercial Fan Kit—6ft, 110–125 Volt/1 Phase—F–IS2–0601

10 CFR Parts 429 and 430 Energy Conservation Program: Test Procedures for Ceiling Fans; Final Rule

LOW-SPEED SMALL-DIAMETER CEILING FAN BLADE AND TIP SPEED CRITERIA

Airflow direction	Thickness (t) of edges of blades		Tip speed threshold	
	Mm	inch	m/s	feet per minute
Reversible	4.8 > t ≥ 3.2	3/16 > t ≥ 1/8	12.2	2,400
Reversible	t ≥ 4.8	t ≥ 3/16	16.3	3,200

BIG ASS SOLUTIONS TEST DATA – ISIS

Fan	Winglet	Control	Diameter (ins)	RPM	Blade Thickness (mm)			Tip Speed (fpm)	
					Leading	Trailing A	Trailing B	Forward	Reverse*
Isis 6ft	Plug	-	**72**	**120**	14.5	4.2	-	2,262	2,262
Isis 6ft	Winglet	-	**72**	**120**	14.5	4.2	-	2,262	2,262

Other affected parties

This requirement does not affect large-diameter fans or high speed small-diameter ceiling fans. Furthermore, this problem consistently appears only at our lower operating speeds. Because our lowest operating speed is designed for mixing of air, without causing a draft, in the winter and the typical 3 speed fan is designed to provide cooling at the lowest speed, our fan produces a much lower airspeed on low than the average fan on the market.

While there is only a small number of known manufacturers who have had their comments to the DOE on this matter published, we expect additional fan manufacturers with products where the speed of the air exiting the fan is not intended to provide cooling are likely to encounter this issue in their respective tests. The product class that is most likely to encounter this issue is the ''LSSD'' fan class. The manufacturers of LSSD fans include, but are not limited to:

Aertron Pty., Ltd.
Air Comfort Products
Air Cool Industrial
American-De Rosa Lamparts DBA Luminance
Artisan Industrial Company, Ltd. China
Canarm, Ltd.
Casablanca Fan Company
Champ-Ray Industrial Company, Ltd
Chien Luen Industries (Zhongshan), Ltd.
Collins Company, Ltd.
Craftmade
Electric
Emerson Ceiling Fans
Fanim Industries
Fanimation
Generation Brands
Halsey Enterprise Company, Ltd.
Hong Kong China Electric Manufacture Company, Ltd.
Hunter Fan Company
J & P Manufacturing
Kendal Lighting Inc.
Kichler Lighting
King of Fans
Landmark Enterprise, Inc.
Litex Industries Luminance
Madison Avenue Lighting & Fan Company
Maxim Lighting International, Inc.
Minka Group
Modern Fan Company
Orient Electric
Pacific Coast Lighting, Inc.
Pan Air Electric Company, Ltd.
Progress Lighting
Quorum International
Regency Ceiling Fans
Royal Pacific
Savoy House Lighting
Shell Electric Manufacturing (H.K.) Company, Ltd.
Tai-Der Electric Manufacturer Company, Ltd.
The Modern Fan Company Inc.
Torch Lighting, Ltd.
Vaxcel International
Ventamatic, Ltd.
Westinghouse Lighting
YuYuan, Ltd.
Zhongshan Hongwei Motor Manufacturing Company
Zhongshan Weihe Electrical Appliances Company, Ltd.
Zhongshan Zhifa Electrical Appliances Company, Ltd.

What is the impact on Big Ass Solutions?

Without a waiver or modification of the stability requirement for low speed air movement, the BAS fan models named above cannot be tested per federal standards.

Thus, Big Ass Solutions' current products are unable to pass the stability requirements at low speeds and in these cases, the entirety of the product test will be considered inadequate under the DOE rulemaking. Big Ass Solutions received from DOE a 180 day extension on Test Procedure compliance, so our compliance date is July 22, 2017. For our products unable to satisfy the DOE test procedures, BAS will not be able to advertise performance data for these products into the US market after July 22nd.

Suggested correction/alternative procedure

Big Ass Solutions recommends modifying the stability requirement with a process of comparing the airflow between two consecutive tests. This would replace the comparison of measured air speed on a senor by sensor basis which is problematic for the turbulent airflow generated by ceiling fans.

For example, in two successive tests Sensor 3 may show a reduction in airflow whereas Sensor 4 registers an increase, but the total airflow is the same between the tests. Instead of achieving stability based on average air velocity per each individual sensor position, Big Ass Solutions recommends basing the stability criteria on airflow. For example, on the high speed test the lower airflow from two consecutive test runs shall be within 3% of the higher aiflow.

BAS proposes the aforementioned basic models be tested according to the test procedure prescribed by DOE at 10 CFR 430, Subpart B, Appendix U, but using the following alternative definition for stability:

"In a successive set of measurements, the lower recorded value for airflow multiplied by 1.03 is greater than or equal to the higher recorded value for airflow, or these airflow measurements vary less than 15 cfm"

Alternatively, DOE could maintain the original methodology and simply relax the low speed stability requirement to 10%. However, this method is not preferred as it could add significant variability to the calculated airflow on low speed. An example of the relaxed low speed stability requirement is provided below:

"(1) The average air velocity for all axes for each sensor varies by less than 5% for high speed and 10% for low speed compared to the average air velocity measured for that same sensor"

Closing

It is our sincere intent to comply with the new test requirements, and we appreciate DOE's efforts to consider input from Big Ass Solutions as part of their stakeholder engagement process. We also appreciate DOE's efforts so far to resolve this isolated but impactful difficulty in the final rule.

Thank you for your consideration and we are available to answer any questions you may have.

Sincerely,
Taylor Sawyer
Government Affairs Director
Big Ass Solutions
Big Ass Solutions
2348 Innovation Drive
Lexington, KY 40511
Contact: Taylor Sawyer. (859) 629–6203/tsawyer@bigasssolutions.com

June 14, 2017

Via Electronic Mail

Submitted To:
Mr. John Cymbalsky
Ms. Ashley Armstrong
Office of Energy Efficiency and Renewable Energy
Building Technologies Program
EE–2J U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC, 20585
AS_Waiver_Requests@ee.doe.gov

Submitted by:
Big Ass Solutions
2348 Innovation Drive
Lexington, KY 40511
Contact: Taylor Sawyer. (859) 629–6203/tsawyer@bigasssolutions.com

Re: Petition to waive select provisions under Test Procedures for Ceiling Fans

Dear Mr. Cymbalsky and Ms. Armstrong,

Big Ass Solutions respectfully requests an interim waiver of one

element in the Test Procedures for Ceiling Fans, finalized by DOE on July 25, 2016. The compliance date for representations made with respect to the energy use or efficiency of ceiling fans under this final rule was January 23, 2017. The docket number is EERE-2013-BT-TP-0050.

It has come to our attention that the stability requirements contained in the final test procedure, when tested at low speed for certain small-diameter ceiling fan models, may cause Big Ass Solutions undue hardship in meeting the requirements of the test procedure. Therefore, we request an interim waiver so that product testing can proceed and regular operations can continue as DOE considers our application for the permanent waiver.

Details

The final rule includes a specification for the stability criteria of the sensors used on small-diameter ceiling fans to evaluate airflow and power consumption:

Airflow and power consumption measurements are considered stable if: (1) the average air velocity for all axes for each sensor varies by less than 5% compared to the average air velocity measured for that same sensor in a successive set of air velocity measurements, and (2) average power consumption varies by less than 1% in a successive set of power consumption measurements.

When Big Ass Solutions initiated testing, we discovered that we are unable to meet this stability requirement at the lower operating speeds of a certain fan containing design characteristics that prevent testing per the current DOE test procedures. The average air speed is so low, that the acceptable variance under the stability criteria above is often less than 2 feet per minute, which falls below the required accuracies for airflow sensors that is stated in section 3.2 of the Final Rule. The measured velocity at this point also falls below the calibrated ranges of our two models of airflow sensors, (~30—1969 fpm) and (~30—196 fpm), which are in accordance with the requirements of the DOE test method and similar to sensors used at other small-diameter fan test labs. We have run several different tests and contracted an independent test lab to conduct additional testing, and all testing appears to have the same issue with stability at very low airspeeds, even with the use of two sets of sensors with different calibrated ranges.

An example test for stability we have conducted is as follows:

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[Fans Stability Verification]

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8	BAF1121	11.17	14.71	12.94	0.76	No	1.29
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10	BAF1120	16.12	19.57	17.85	0.82	No	1.78

While we are moving forward with testing on other BAS products not affected by this issue, the potential for future innovative fan products with blade spans under 7ft to become burdened by this may be substantial.

Big Ass Solutions currently manufactures a series of affected small-diameter HVLS fans with a blade spans of 6ft and markets them as Isis model Big Ass Fans. The two basic model Big Ass Fans found below, have physical and mechanical characteristics that meet the criteria for LSSD ceiling fan blade thickness and tip speed. Big Ass Solutions has included data detailing the exactness of this model's LSSD classification eligibility.

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Isis, Commercial Fan Kit—4ft, 110–125 Volt/1 Phase—F–IS2–0401L8

Isis, Commercial Fan Kit—4'6'', 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0401I06L8S4

Isis, Commercial Fan Kit—4'6'', 110–125 Volt/1 Phase—F–IS2–0401I06L8

Isis, Commercial Fan Kit—5ft, 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0501L8S4

Isis, Commercial Fan Kit—5ft, 110–125 Volt/1 Phase—F–IS2–0501L8

Isis, Commercial Fan Kit—6ft, 110–125 Volt/1 Phase; Plug Winglets—F–IS2–0601S4

Isis, Commercial Fan Kit—6ft, 110–125 Volt/1 Phase—F–IS2–0601

10 CFR Parts 429 and 430 Energy Conservation Program: Test Procedures for Ceiling Fans; Final Rule

LOW-SPEED SMALL-DIAMETER CEILING FAN BLADE AND TIP SPEED CRITERIA

Airflow direction	Thickness (t) of edges of blades		Tip speed threshold	
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Reversible	4.8 > t ≥ 3.2	3/16 > t ≥ 1/8	12.2	2,400
Reversible	t ≥ 4.8	t ≥ 3/16	16.3	3,200

BIG ASS SOLUTIONS TEST DATA – ISIS

Fan	Winglet	Control	Diameter (ins)	RPM	Blade Thickness (mm)			Tip Speed (fpm)	
					Leading	Trailing A	Trailing B	Forward	Reverse*
Isis 6ft	Plug	-	**72**	**120**	14.5	4.2	-	2,262	2,262
Isis 6ft	Winglet	-	**72**	**120**	14.5	4.2	-	2,262	2,262

Other affected parties

This requirement does not affect large-diameter fans or high speed small-diameter ceiling fans. Furthermore, this problem consistently appears only at our lower operating speeds. Because our lowest operating speed is designed for mixing of air, without causing a draft, in the winter and the typical 3 speed fan is designed to provide cooling at the lowest speed, our fan produces a much lower airspeed on low than the average fan on the market.

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Aertron Pty., Ltd.
Air Comfort Products
Air Cool Industrial
American-De Rosa Lamparts DBA Luminance
Artisan Industrial Company, Ltd. China
Canarm, Ltd.
Casablanca Fan Company
Champ-Ray Industrial Company, Ltd
Chien Luen Industries (Zhongshan), Ltd.
Collins Company, Ltd.
Craftmade
Electric
Emerson Ceiling Fans
Fanim Industries
Fanimation
Generation Brands
Halsey Enterprise Company, Ltd.
Hong Kong China Electric Manufacture Company, Ltd.
Hunter Fan Company
J & P Manufacturing
Kendal Lighting Inc.
Kichler Lighting
King of Fans
Landmark Enterprise, Inc.
Litex Industries Luminance
Madison Avenue Lighting & Fan Company
Maxim Lighting International, Inc.
Minka Group
Modern Fan Company
Orient Electric
Pacific Coast Lighting, Inc.
Pan Air Electric Company, Ltd.
Progress Lighting
Quorum International
Regency Ceiling Fans
Royal Pacific
Savoy House Lighting
Shell Electric Manufacturing (H.K.) Company, Ltd.
Tai-Der Electric Manufacturer Company, Ltd.
The Modern Fan Company Inc.
Torch Lighting, Ltd.
Vaxcel International
Ventamatic, Ltd.
Westinghouse Lighting
YuYuan, Ltd.
Zhongshan Hongwei Motor Manufacturing Company
Zhongshan Weihe Electrical Appliances Company, Ltd.
Zhongshan Zhifa Electrical Appliances Company, Ltd.

What is the impact on Big Ass Solutions?

Without an interim waiver or modification of the stability requirement for low speed air movement, the BAS fan models named above cannot be tested per federal standards.

Thus, Big Ass Solutions' current products are unable to pass the stability requirements at low speeds and in these cases, the entirety of the product test will be considered inadequate under the DOE rulemaking. Big Ass Solutions received from DOE a 180 day extension on Test Procedure compliance, so our compliance date is July 22, 2017. For our products unable to satisfy the DOE test procedures, BAS will not be able to advertise performance data for these products into the US market after July 22nd.

Suggested correction/alternative procedure

Big Ass Solutions recommends modifying the stability requirement with a process of comparing the airflow between two consecutive tests. This would replace the comparison of measured air speed on a senor by sensor basis which is problematic for the turbulent airflow generated by ceiling fans.

For example, in two successive tests Sensor 3 may show a reduction in airflow whereas Sensor 4 registers an increase, but the total airflow is the same between the tests. Instead of achieving stability based on average air velocity per each individual sensor position, Big Ass Solutions recommends basing the stability criteria on airflow. For example, on the high speed test the lower airflow from two consecutive test runs shall be within 3% of the higher aiflow.

BAS proposes the aforementioned basic models be tested according to the test procedure prescribed by DOE at 10 CFR 430, Subpart B, Appendix U, but using the following alternative definition for stability:

"In a successive set of measurements, the lower recorded value for airflow multiplied by 1.03 is greater than or equal to the higher recorded value for airflow, or these airflow measurements vary less than 15 cfm"

Alternatively, DOE could maintain the original methodology and simply relax the low speed stability requirement to 10%. However, this method is not preferred as it could add significant variability to the calculated airflow on low speed. An example of the

relaxed low speed stability requirement is provided below:

"(1) The average air velocity for all axes for each sensor varies by less than 5% for high speed and 10% for low speed compared to the average air velocity measured for that same sensor"

Closing

It is our sincere intent to comply with the new test requirements, and we appreciate DOE's efforts to consider input from Big Ass Solutions as part of their stakeholder engagement process. We also appreciate DOE's efforts so far to resolve this isolated but impactful difficulty in the final rule.

Thank you for your consideration and we are available to answer any questions you may have.

Sincerely,

Taylor Sawyer

Government Affairs Director

Big Ass Solutions

[FR Doc. 2018–05932 Filed 3–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Orders Issued Under Section 3 of the Natural Gas Act During February 2018

	FE Docket Nos.
JORDAN COVE ENERGY PROJECT, L.P.	12–32–LNG
SHELL NA LNG	18–14–LNG
EXCELERATE ENERGY L.P.	18–12–LNG
SUMAS DRY KILNS INC	18–13–NG
PACIFIC GAS & ELECTRIC COMPANY.	17–166–NG
CENTRAL VALLE HERMOSO, S.A. DE C.V.	18–11–NG
CENTRAL LOMAS DE REAL, S.A. DE C.V.	18–10–NG
NORTHWEST NATURAL GAS COMPANY.	18–22–NG
CARGILL INCORPORATED.	17–08–NG
IRVING OIL COMMERCIAL GP & IRVING OIL TERMINALS OPERATIONS LLC.	15–165–NG
SHELL ENERGY NORTH AMERICA (US), L.P.	18–17–NG
UPSTREAM PETROLEUM INC.	18–21–NG
WHITE EAGLE TRADING, LLC.	18–20–NG
BROOKFIELD ENERGY MARKETING LP.	18–18–NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during February 2018, it issued orders granting or vacating authority to import and export natural gas, and to import and export liquefied natural gas (LNG). These orders are summarized in the attached appendix and may be found on the FE website at *https://www.energy.gov/fe/downloads/listing-doefe-authorizationsorders-issued-2018-1.* They are also available for inspection and copying in the U.S. Department of Energy (FE–34), Division of Natural Gas Regulation, Office of Regulation and International Engagement, Office of Fossil Energy, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 20, 2018.

Robert J. Smith,

Deputy Assistant Secretary for Oil and Natural Gas (Acting).

APPENDIX

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

Unnumbered	02/01/18	12–32–LNG	Jordan Cove Energy Project, L.P.	Order Dismissing Supplemental Comments Dismissing Request for Extension of Time, and Dismissing Motion to File Partial Answer.
4151	02/08/18	18–14–LNG	Shell NA LNG	Order 4151 granting blanket authority to import LNG from various international sources by vessel.
4152	02/08/18	18–12–LNG	Excelerate Energy L.P.	Order 4152 granting blanket authority to import LNG from various international sources by vessel.
4153	02/08/18	18–13–NG	Sumas Dry Kilns Inc	Order 4153 granting blanket authority to import natural gas from Canada.
4154	02/12/18	17–166–NG	Pacific Gas & Electric Company.	Order 4154 granting blanket authority to import natural gas from Canada.
4155	02/15/18	18–11–NG	Central Valle Hermoso, S.A. de C.V.	Order 4155 granting blanket authority to import/export natural gas from/to Mexico.
4156	02/15/18	18–10–NG	Central Lomas de Real, S.A. de C.V.	Order 4156 granting blanket authority to import/export natural gas from/to Mexico.
4157	02/28/18	18–22–NG	Northwest Natural Gas Company.	Order 4157 granting blanket authority to import/export natural gas from/to Canada.
3989–A	02/28/18	17–08–NG	Cargill Incorporated	Order 3989–A vacating blanket authority to import/export natural gas from/to Canada/Mexico, and to import LNG from various international sources by vessel.
3765–B	02/28/18	15–165–NG	Irving Oil Commercial GP & Irving Oil Terminals Operations LLC.	Order 3765–B granting Request to Amend long-term authority to import/export natural gas from/to Canada.
4158	02/28/18	18–17–NG	Shell Energy North America (US), L.P.	Order 4158 granting blanket authority to import/export natural gas from/to Canada/Mexico, and to import LNG from various international sources by vessel.
4159	02/28/18	18–21–NG	Upstream Petroleum Inc.	Order 4159 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4160	02/28/18	18–20–NG	White Eagle Trading, LLC.	Order 4160 granting blanket authority to import/export natural gas from/to Mexico.

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

4161	02/28/18	18–18–NG	Brookfield Energy Marketing LP.	Order 4161 granting blanket authority to import/export natural gas from/to Canada.

[FR Doc. 2018–05966 Filed 3–22–18; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number CAC–051]

Notice of Decision and Order Granting a Waiver to Johnson Controls, Inc. From the Department of Energy Central Air Conditioners and Heat Pumps Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of decision and order.

SUMMARY: This notice announces a Decision and Order granting Johnson Controls, Inc. (''JCI'') a waiver from specified portions of the DOE test procedure for determining the efficiency of specified central air conditioners (''CAC'') and heat pump (''HP'') basic models. JCI is required to test and rate the specified CAC and HP basic models in accordance with the alternate test procedure described in the Decision and Order.

DATES: The Decision and Order is effective as of March 23, 2018.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2017, JCI originally filed a petition for waiver and an application for interim waiver from the applicable CAC and HP test procedure set forth in Appendix M and subsequently amended its petition once in May and again in June. On September 20, 2017, DOE published a notice announcing its receipt of the petition for waiver and also granting JCI an interim waiver. 82 FR 43952. In that notice, DOE also solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that must be followed for testing and certifying the specific basic models for which JCI requested a waiver. *Id.*

On March 23, 2018, DOE publishes this notice announcing a Decision and Order regarding JCI's petition. This notice includes a copy of the Decision and Order, with information JCI marked as confidential business information redacted, DOE issued to JCI.

Issued in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Case #CAC–051—Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes the CACs and HPs which are the subject of this Order. (42 U.S.C. 6292(a)(3)) Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their product complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered products during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The currently applicable CAC and HP test procedure is contained in the Code of Federal Regulations (CFR) at 10 CFR part 430, subpart B, appendix M, ''*Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps*'' (''Appendix M'').

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic models for which the waiver was requested contain a design characteristic that prevents testing of the basic models according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic models in a manner so unrepresentative of their true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

II. Petition for Waiver: Assertions and Determinations

On May 17, 2017, JCI filed a petition for waiver and an application for interim waiver from the applicable CAC and HP test procedure set forth in Appendix M.[3] On June 2, 2017, JCI supplemented its petition with additional information. According to JCI, testing its CAC and HP basic models that use variable-speed, oil-injected scroll compressors (VSS systems) with only a 20-hour break-in period produces

[1] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] JCI originally submitted a petition for waiver and application for an interim waiver dated May 2, 2017, which was superseded by the corrected petition for waiver and application for interim waiver dated May 17, 2017. These documents along with supporting materials and comments can be reviewed at: *https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0037-0001.*

results unrepresentative of their true energy consumption characteristics, and would provide materially inaccurate comparative data. JCI requested that in lieu of the 20-hour break-in limit, it be permitted to test its VSS systems with a 72-hour break-in period. Consequently, JCI seeks a waiver from DOE to permit it to use an alternate test procedure to test and rate specific CAC and HP basic models, which increases the break-in time limit stipulated in section 3.1.7 of Appendix M.

JCI submitted data indicating that the VSS system basic models specified in the petition have compressors that may require more than the 20 hours of break-in time allowed by the DOE test procedure. The purpose of the DOE break in period is to represent the wearing process that smooths out irregularities in the mating surfaces of the compressor. These irregularities can increase friction between mating surfaces and/or result in reduced refrigerant mass flow, both of which would reduce compressor and in turn, overall product efficiency. The majority of the operational life of the compressor occurs after this wearing process. Hence, testing after a sufficient break in period is more representative of field performance. Based on data submitted on the issue and facts presented as a record of DOE's central air conditioner and heat pump test procedure rulemaking to date, DOE determined that a 20 hour break in period is appropriate for central air-conditioners and heat pumps. 77 FR 28928, 28944 (May 16, 2012). Specifically, stakeholders commented that a break-in period of 16 to 20 hours would generally be appropriate for testing of commercial air-conditioners with capacity less than 65,000 Btu/h. 77 FR 28928, 28943. However, in the basic models specified by JCI in its petition, the oil injected into the oil-injected scroll compressors increases the coverage of the viscous oil layer between mating surfaces of the scroll. This is presumably its purpose, *i.e.,* to provide additional sealing in the gaps of the mating surfaces to improve compressor volumetric efficiency (relationship between displacement rate and volume flow rate of refrigerant drawn into the compressor). By enhancing this oil layer, the direct contact between irregularities in the surfaces is reduced. The reduction in direct contact slows the wearing process that smooths out these irregularities. Thus, the 20-hour break-in period may not allow for sufficient smoothing of irregularities that reduce compressor efficiency and would result in an efficiency measurement that is unrepresentative of actual field use. Hence a longer break-in period would be appropriate for these products.

On September 20, 2017, DOE published a notice announcing its receipt of the petition for waiver and also granting JCI an interim waiver. 82 FR 43952. In that notice DOE also solicited comments from interested parties on all aspects of the petition and specified an alternate test procedure that must be followed for testing and certifying the specific basic models for which JCI requested a waiver. *Id.* Following close of the comment period, DOE received a comment from Goodman Global, Inc. (a member of the Daikin Group) that was supportive of DOE granting the waiver.[4] DOE did not receive any other comments relevant to this petition.[5]

Based on the information provided by JCI, DOE has determined that the current test procedure at Appendix M would evaluate the specified CAC and HP basic models in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data. Therefore, in the Decision and Order, DOE is requiring that JCI test and rate the CAC and HP basic models for which it has requested a waiver according to the alternate test procedure specified in the Decision and Order, which is identical to the procedure provided in the interim waiver.

In its petition JCI sought a test procedure waiver for certain models. The Decision and Order is applicable only to the basic models listed within it and does not extend to any other basic models.

Consistent with 10 CFR 430.27(j), not later than 60 days after March 23, 2018 any manufacturer currently distributing in commerce in the United States products employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver.

Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of those products in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

III. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission (''FTC'') staff concerning JCI's petition for waiver. The FTC staff did not have any objections to granting the waiver to JCI.

IV. Order

After careful consideration of all the material that was submitted by JCI in this matter, DOE grants a waiver regarding the below specified basic models. Therefore, in accordance with 10 CFR 430.27, it is *ordered* that:

(1) JCI must test and rate the CAC and HP basic models listed in paragraph (1)(A) that use the variable-speed, oil-injected scroll compressors that are listed in paragraph (1)(B) with the alternate test procedure set forth in paragraph (2).

	Brand				
	York	Coleman	Luxaire	Fraser-Johnston	Champion
Air Conditioners	YXV24B21	AC21B2421	AL21B2421	AL21B2421	AL21B2421
	YXV36B21	AC21B3621	AL21B3621	AL21B3621	AL21B3621
	YXV48B21	AC2134821	AL21B4821	AL21B4821	AL21B4821
	YXV60B21	AC21B6021	AL21B6021	AL21B6021	AL21B6021
Heat Pumps	YZV24B21	HC20B2421	HL20B2421	HL20B2421	HL20B2421
	YZV36B21	HC20B3621	HL20B3621	HL20B3621	HL20B3621
	YZV48B21	HC20B4821	HL20B4821	HL20B4821	HL20B4821
	YZV60B21	HC20B6021	HL20B6021	HL20B6021	HL20B6021

[4] Goodman's comment can be accessed at: *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0037.*

[5] One comment was received from a party identified as Anonymous regarding air emissions.

(A) JCI basic models that include all combinations of the following outdoor unit models, listed by brand name:

(B) Variable-speed, oil-injected scroll compressor models that are [Redacted] brand products manufactured by [Redacted], listed by model number: [Redacted]

(2) The alternate test procedure for the JCI basic models listed in paragraph (1)(A) having one of the compressors listed in paragraph (1)(B) is the test procedure for CACs and HPs prescribed by DOE at 10 CFR part 430, subpart B, appendix M, except that under section 3.1.7 of appendix M the break-in period maximum of 20 hours is increased to 72 hours, reading as follows:

3.1.7 *Test Sequence*

Manufacturers may optionally operate the equipment under test for a ''break-in'' period, not to exceed 72 hours, prior to conducting the test method specified in this section. A manufacturer who elects to use this optional compressor break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that are required to be maintained under 10 CFR 429.71. When testing a ducted unit (except if a heating- only heat pump), conduct the A or A2 Test first to establish the cooling full-load air volume rate. For ducted heat pumps where the heating and cooling full-load air volume rates are different, make the first heating mode test one that requires the heating full-load air volume rate. For ducted heating-only heat pumps, conduct the H1 or H12 Test first to establish the heating full-load air volume rate. When conducting a cyclic test, always conduct it immediately after the steady-state test that requires the same test conditions. For variable-speed systems, the first test using the cooling minimum air volume rate should precede the EV Test, and the first test using the heating minimum air volume rate must precede the H2V Test. The test laboratory makes all other decisions on the test sequence.

(3) *Representations.* JCI must make representations about the efficiency of the basic models identified in paragraph (1) for compliance, marketing, or other purposes only to the extent that the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing in accordance with 10 CFR part 430, subpart B, appendix M and 10 CFR 429.16.

(4) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27.

(5) This waiver is issued on the condition that the statements, representations, and documentation provided by JCI are valid. If JCI makes any modifications to the controls or configurations of these basic models, the waiver would no longer be valid and JCI would either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, JCI may request that DOE rescind or modify the waiver if JCI discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Granting of this waiver does not release JCI from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy

[FR Doc. 2018–05941 Filed 3–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2017–014; EERE–2017–BT–WAV–0061]

Notice of Petition for Waiver of Huawei Technologies, Co. Ltd. From the Department of Energy External Power Supplies Test Procedure and Grant of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, granting of an interim waiver, and request for public comment.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from Huawei Technologies, Co. Ltd. (''Huawei'') seeking an exemption from specified portions of the U.S. Department of Energy's (''DOE's'') test procedure for determining external power supply (''EPS'') energy efficiency. The waiver request pertains to adaptive EPSs that support a particular International Electrotechnical Commission standard. Under the existing DOE test procedure, the average active mode efficiency of an adaptive EPS must be tested at both its lowest and highest achievable output voltages. Huawei contends that since its specified products operate above 2 amps current at the lowest achievable output voltages under rare conditions and for only brief periods of time, the suggested alternate testing approach detailed in its waiver petition is needed to measure the active mode efficiency of such products in a representative manner. DOE is granting Huawei an interim waiver from the DOE EPS test procedure for the specified basic models of EPSs, subject to use of the alternate test procedure as set forth in this document and is soliciting comments, data, and information concerning the petition and the suggested alternate test procedure.

DATES: Written comments and information are requested and will be accepted on or before April 23, 2018.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by case number ''2017–014'', and Docket number ''EERE–2017–BT–WAV–0061,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Huawei2017WAV0061@ee.doe.gov.* Include the case number [Case No. 2017–014] in the subject line of the message.
- *Postal Mail:* Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, Petition for Waiver Case No. 2017–014, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public

disclosure, may not be publicly available.

The docket web page can be found at *http://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0061.* The docket web page contains simple instruction on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov.*

Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes EPSs, which are the focus of this notice. (42 U.S.C. 6291(36); 42 U.S.C. 6295(u)).

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the Act include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether a product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of covered products during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for EPSs is contained in Title 10 of the Code of Federal Regulations (''CFR'') Part 430, subpart B, appendix Z, *Uniform Test Method for Measuring the Energy Consumption of External Power Supplies.*

The regulations set forth in 10 CFR 430.27 provide that upon receipt of a petition, DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. Petition for Waiver of Test Procedure and Petition for Interim Waiver

On December 1, 2017, Huawei filed a petition for waiver from the DOE test procedure for EPSs under 10 CFR 430.27 for several basic models of adaptive EPSs [3] that meet the provisions of the International Electrotechnical Commission's ''Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery'' (''IEC 62680–1–2:2017'') specification.[4] The IEC specification describes the particular architecture, protocols, power supply behavior, connectors, and cabling necessary for managing power delivery over a universal serial bus (''USB'') connection at power levels of up to 100 watts (''W''). The purpose behind this specification is to help provide a standardized approach for power supply and peripheral developers to ensure backward compatibility while retaining product design and marketing flexibility. See generally, IEC 62680–1–2:2017 (Abstract) (describing the standard's general provisions and purpose).

In Huawei's view, applying the DOE test procedure to the adaptive EPSs specified in its petitions would yield results that would be unrepresentative of the active-mode efficiency of those products. The DOE test procedure requires that the average active-mode efficiency for adaptive EPSs be measured by testing the unit twice—once at the highest achievable output voltage (''V'') and once at the lowest. The test procedure requires that active-mode efficiency be measured at four loading conditions relative to the

[1] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] The specific basic models for which the petition applies are EPS basic models HW–200200UPX, HW–200300UPX, HW–200325UPX, and HW–200500UPX. These basic model names were provided by Huawei in its December 1, 2017 petition.

[4] International Electrotechnical Commission Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery specification, *https://webstore.iec.ch/publication/26174/.*

nameplate output current of the EPS. See 10 CFR 430.23(bb) and 10 CFR part 430, subpart B, appendix Z. The lowest achievable output voltage supported by the IEC 62680–1–2:2017 specification is 5V and the nameplate current at this voltage output is 3 amps (''A''), resulting in a power output of 15 W. Huawei contends that while the IEC 62680–1–2:2017 specification requires the tested EPS to support this power output, the 15W at 5V condition will be rarely used and only for brief periods of time, and that adaptive EPSs operating at 5V do not exceed 10W for almost all usage conditions.

Huawei contends that, when charging a product that is sold or intended to be used with the EPS, the EPS charges at 5 volts only with a dead battery or fully charged battery (and then at 0.5A or less). At other times when more power is needed, the EPS will use a higher voltage rail (greater than 5V). (A ''voltage rail'' refers to a single voltage provided by the relevant power supply unit through a dedicated circuit/wire used for that voltage.) Huawei further states that when using an adaptive EPS that supports the IEC 62680–1–2:2017 specification to charge an end-use product of a manufacturer different from the one who manufactured the EPS, it is likely that the product would charge at less than 10W at 5V, or may even be capable of exploiting the ability of an adaptive EPS to provide higher voltages for faster charging.

Accordingly, Huawei asserts that the DOE test procedure's measurement of efficiency at the prescribed power level (*i.e.,* 5V, 3A) is unrepresentative of the true energy consumption of these EPSs. Consequently, it seeks a waiver from DOE to permit it to use an alternate test procedure to measure the energy efficiency of the specified adaptive EPSs that support the IEC 62680–1–2:2017 specification by testing these devices at the lowest voltage, 5V, and at an output power at 10W instead of 15W.

Huawei also requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE understands that, absent an interim waiver, applying the current DOE test procedure to the specified adaptive EPS basic models would not produce results representative of the actual field usage of these products. DOE notes that it has recently granted interim waivers in response to petitions that presented the same issue as in Huawei's petition.[5] DOE has reviewed the alternate procedure suggested by Huawei. The procedure, which is the same as that specified in the recently granted interim waiver, will allow for the accurate measurement of efficiency of these products, while alleviating the testing problems associated with Huawei's implementation of EPS testing for the basic models specified in its petition. Consequently, it appears likely that Huawei's petition for waiver will be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant Huawei immediate relief pending a determination of the petition for waiver.

III. Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards.

In its petition, Huawei suggested that the basic models listed in the petition be tested according to the DOE EPS test procedure prescribed at 10 CFR part 431, subpart B, appendix Z, except to modify the average active mode efficiency calculations by using the average of four loading conditions representing the same respective percentages of an output current of 2A rather than at its highest nameplate output current—in this case, 3A. Under the current test procedure, when testing an adaptive EPS at the lowest achievable output voltage, the measured average active mode efficiency is equal to the average efficiency when testing the EPS at 100%, 75%, 50%, and 25% of the nameplate output current of the EPS at that voltage. See 10 CFR part 430 subpart B, appendix Z, sections 1.f and 4(a)(i)(E), and Table 1. Thus, for an adaptive EPS with a lowest output voltage of 5V and a nameplate output current of 3A (resulting in a 15W output at 100% of the nameplate output current), the average active mode efficiency at the lowest output voltage would be equal to the average of the efficiencies when testing at 15W, 11.25W, 7.5W, and 3.75W. Under the alternate test procedure suggested by Huawei, the average active mode efficiency would equal the average of the efficiencies when testing at 10W, 7.5W, 5W, and 2.5W. The petitioner suggested taking the results from this alternate approach and comparing them against the DOE efficiency requirements at 10W.

During the period of the interim waiver in this notice, the petitioner must test the specified basic models according to the test procedure as discussed in this section. Pursuant to the test procedure waiver regulations at 10 CFR 430.27 and after considering public comments on the petition, DOE will announce its decision as to an alternate test procedure for the petitioner in a subsequent Decision and Order.

IV. Summary of Grant of Interim Waiver

For the reasons stated above, DOE has informed the petitioner that it is granting the petition for interim waiver from testing for the specified EPS basic models. The substance of the Interim Waiver Order is summarized below.

Huawei is required to use the alternate test procedures set forth in this notice to test and rate the EPS basic models listed in the petition (HW–200200UPX, HW–200300UPX, HW–200325UPX, and HW–200500UPX). Huawei is permitted to make representations about the EPS efficiency of these basic models for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions set forth in the alternate test procedure and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.37.

DOE evaluates and grants waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. Huawei may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g). In addition, DOE notes that granting of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429. See also 10 CFR 430.27(a) and (i).

Unless otherwise rescinded or modified, the interim waiver shall remain in effect until such time as when DOE amends the test procedure to address the issues presented in the

[5] See, Notice of Petition for Waiver of Apple, Inc., Microsoft Corporation, Poin2 Lab, and Hefei Bitland Information Technology Co., Ltd. From the Department of Energy External Power Supplies Test Procedure and Grant of Interim Waiver. 82 FR 23294 (July 24, 2017).

waiver and use of the amended test procedure is required to demonstrate compliance. 10 CFR 430.27(h). DOE may rescind or modify a waiver or interim waiver at any time upon a determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. See 10 CFR 430.27(k)(1). Likewise, Huawei may request that DOE rescind or modify the interim waiver if Huawei discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2). Furthermore, this interim waiver is conditioned upon the understanding that the statements, representations, and documentary materials provided by Huawei are valid and accurate.

V. Summary and Request for Comments

Through this notice, DOE announces receipt of Huawei's petition for waiver from the DOE test procedure for certain basic models of Huawei's EPSs, and DOE grants Huawei an interim waiver from the test procedure for the EPS basic models listed in Huawei's petition. DOE is publishing Huawei's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv).[6] The petition includes a suggested alternate test procedure, as discussed in section III of this notice, to determine the EPS efficiency of Huawei's specified EPSs. DOE may consider including this alternate procedure in a subsequent Decision and Order.

DOE invites all interested parties to submit in writing by April 23, 2018, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Mr. Dennis Amari, Director of Federal & Regulatory Affairs, Huawei Technologies, Co. Ltd., 875 15th Street NW, Suite 825, Washington, DC 20005.

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received,

[6] Huawei did not claim that any portion of its petition contained confidential business information.

including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on March 9, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Before the United States Department of Energy Washington, DC 20585

In the Matter of Energy Efficiency Program: Test Procedures for External Power Supplies, Docket No. EERE–2014–BT–TP–0043, RIN 1904–AD36.

Petition of Huawei Technologies Co., Ltd. for Waiver and Application for Interim Waiver of Test Procedures for External Power Supplies

Huawei Technologies Co., Ltd. (''Huawei'') [1] respectfully submits this Petition for Waiver and Application for Interim Waiver to the U.S. Department of Energy (''DOE'') on the test procedures prescribed in 10 CFR 430.23, Subpart B, Appendix Z,[2] for determining the energy efficiency of certain adaptive external power supplies (''EPSs'').[3] As set forth herein, Huawei submits that the basic models of the adaptive EPSs identified in Appendix I of this petition satisfy the criteria for a waiver as specified in rules governing DOE's Energy Conservation Program for Consumer Products.[4] That is, the prescribed test procedures for evaluating these adaptive EPSs are so unrepresentative of their true energy consumption characteristics that such testing would result in materially inaccurate comparative data. Huawei therefore requests that the alternate test procedure described below serve the purpose of evaluating the energy consumption characteristics of these adaptive EPSs.[5]

Huawei also notes that basic models of adaptive EPSs listed in Appendix I incorporate similar design characteristics to those for which DOE has already granted an interim waiver conditioned on the use of an alternate testing procedure.[6] Thus, as the prescribed test procedures would result in materially inaccurate comparative data for the basic models of the adaptive ESPs listed in Appendix I and DOE has granted interim waivers for testing of other manufacturers' basic models with similar design characteristics, Huawei requests that DOE grant a waiver for these basic models and provide for the same alternate testing procedures as those approved for other manufacturers.[7]

I. Basic Models of Adaptive EPSs Applicable to this Waiver Petition

The basic models for which a waiver is requested are the adaptive EPSs set forth in Appendix I. All of these basic models are manufactured by Huawei Technologies Co., Ltd. and will be distributed in commerce in the United States under the ''Huawei'' brand name.

II. Basis for Requested Waiver

As described in the earlier petitions for which DOE granted interim waivers, adaptive EPSs are highly useful consumer products that have beneficial environmental attributes.[8] For example, they provide energy efficient charging with less resistive loss and accelerate the charging process which reduces the overall time needed to charge a product's battery. They can also be readily reused when devices are replaced.[9] While convenient for consumers, adaptive EPSs further yield environmental benefits by providing more efficient energy use, reduced packaging with less landfill waste and a decreased need for transportation shipments.[10]

The current DOE test procedure requires measurement of average active-mode efficiency for adaptive EPSs at four load points—100%, 75%, 50%, and 25%—for each of the highest and lowest voltage levels.[11] The average efficiency is deemed to be the arithmetic mean of the efficiency values calculated at the four load points.[12]

The lowest achievable output voltage supported by the basic models is 5 volts (V), which corresponds to a maximum power of 15W.[13] According to International Electrotechnical Commission's (''IEC'') USB Power Delivery Specification (IEC 62680–1–2:2017), the product shall support 15 W at 5V.[14]

Adaptive EPSs are increasingly used with tablets, mobile phones, and similar hand-held devices. These devices constitute the typical primary load of adaptive EPSs. In conformance with the IEC USB Power Delivery Specification, the adaptive EPSs listed in Appendix I are required to support 15W (5V 3A[amps]) when used with these devices.[15] However, these devices very rarely consume the power of 15W and do not exceed 10W in nearly all real-world usage scenarios.

As described to DOE in earlier petitions,[16] evaluation of adaptive EPSs at the 15W power level does not represent actual energy consumption characteristics of the basic models listed in Appendix I because the 15W at 5V power level will only be used in extremely rare instances for very short periods of time. Therefore, Huawei

[1] Huawei is a leading global provider information and communications technology solutions, products, and services that are used in more than 170 countries and regions—including in the United States—and serve over one-third of the world's population, enabling the future information society and building a Better Connected World. *See http://www.huawei.com/en/.*

[2] *See* 10 CFR 430.23, Subpart B, Appendix Z (2017) (uniform test method for measuring the energy consumption of external power supplies); *see also* 10 CFR 430.27 (2017) (setting forth rules for petition for waiver and interim waiver).

[3] As defined in Federal rules, an adaptive EPS is ''an external power supply that can alter its output voltage during active-mode based on an established digital communication protocol with the end-use application without any user generated action.'' *See* 10 CFR 430.2 (2017).

[4] *See* 10 CFR 430.27(a)(1).

[5] *See* 10 CFR 430.27 (b)(1)(iii).

[6] *See* Notice of Petition for Waiver of Apple, Inc., Microsoft Corporation, Poin2 Lab, and Hefei Bitland information Technology Co., Ltd. From the Department of Energy External Power Supplies Test Procedure and Grant of Interim Waiver, 82 FR 34294 (July 24, 2017). Pursuant to Program rules at 430 CFR 430.27 (j), Huawei submits this petition for waiver and application for interim waiver as it is a manufacturer which does not currently distribute adaptive EPSs in commerce in the United States that employ the particular technology or have the same particular characteristic as those identified in the petitions noted here. Hence, prior to distributing in commerce in the United States the adaptive EPSs identified in Appendix 1, Huawei submits this petition for waiver and request for interim waiver of these EPS basic models.

[7] Huawei notes that DOE has stated it will publish in the **Federal Register** either: a ''Decision and Order'' as to the continued use of the alternate testing procedure approved as part of the earlier waiver petitions or a modified version thereof; or a new amended testing procedure. 82 FR 34294, 34297 (July 24, 2017). While DOE final action may resolve the issue of testing all basic models of adaptive EPSs under the latter scenario, Huawei requests immediate relief by the grant of an interim waiver and, to the extent necessary, a waiver from the prescribed test procedures.

[8] *See* Petition of Apple, Inc. for Waiver and Application for Interim Waiver of Test Procedures for External Power Supplies (June 8, 2017) at 2 (''Apple Petition''); Petition of Microsoft Corporation for Waiver and Application for Interim Waiver of Test Procedures for External Power Supplies (June 8, 2017) at 2 (''Microsoft Petition''); Petition of Poin2Lab for Waiver and Application for Interim Waiver of Test Procedures for External Power Supplies (June 8, 2017) at 2 (''Poin2Lab Petition''); *and* Petition of Hefei Bitland Technology Co., Ltd. for Waiver Application for Interim Waiver of Test Procedures for External Power Supplies (June 22, 2017) at 2 (''Hefei Petition'').

[9] *See Id.*

[10] *See Id.*

[11] *See* § 430.23, Subpart B, Appendix Z, 4(a)(i)(C), (E) and (H); *see also* Apple Petition at 3; Microsoft Petition at 2; Poin2 Lab. Petition at 2; *and* Hefei Petition at 2.

[12] *See* § 430.23, Subpart B, Appendix Z, 4(a)(i)(H).

[13] *See Id.; see also* Apple Petition at 3; Microsoft Petition at 2; Poin2 Lab. Petition at 2–3; *and* Hefei Petition at 2–3.

[14] IEC 62680–1–2:2017, Universal serial bus interfaces for data and power—Part 1–2: Common components—USB Power Delivery Specifications. See: *https://webstore.iec.ch/publication/29564.*

[15] *See Id.*

[16] *See* Apple Petition at 4; Microsoft Petition at 3; Poin2 Lab. Petition at 3; *and* Hefei Petition at 3.

agrees that ''evaluation of adaptive EPSs at the 15W power level when evaluating efficiency at the lowest voltage rail (5V) is grossly unrepresentative of the actual energy consumption characteristics of these models in real world usage.'' [17] As such, Huawei joins the earlier petitioners' request that DOE grant a waiver with the alternate test procedure described below.

III. Proposed Alternate Test Procedure

Consistent with the approved alternate test procedure included in the earlier waiver petitions granted by DOE,[18] Huawei requests that the same test procedure be allowed for purposes of evaluating the performance of the basic models of adaptive EPSs listed in Appendix I. Specifically, Huawei requests DOE allow performance testing as follows:

''The applicable method of test for the basic models . . . is the test procedure for EPSs prescribed by DOE at 10 CFR part 430, subpart B, Appendix Z, except that under section 4(a)(i)(E) and Table 1 of Appendix Z, adaptive EPSs that meet the IEC 62680–1–2:2017 specification must be tested such that the 100% nameplate loading condition when testing at the lowest achievable output voltage is 2A (which corresponds to all output power of 10 watts). The 75%, 50% and 25% loading conditions shall be scaled accordingly and the nameplate output power of such an EPS, at the lowest output voltage, shall be equal to 10 watts.'' [19]

Huawei recommends that a waiver, if granted, continue until such time as DOE adopts an applicable amended test procedure for adaptive EPSs.

IV. Request for Interim Waiver

Huawei also requests that DOE grant an interim waiver for testing and rating of the basic models of adaptive EPSs listed in Appendix I. As DOE stated on the earlier petitions, ''absent an interim waiver, the basic models identified. . . cannot be tested and rated for energy consumption on the basis of their true characteristics.'' [20] Further, DOE concluded ''that [the alternate test procedure] will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with petition's implementation of EPS testing for their adaptive EPSs that support the IEC 62680–1–2:2017 specification,'' and that ''the petition for waiver will likely be granted and has decided that it is desirable for public policy reasons to grant petitioners immediate relief pending a determination on the petition for waiver,'' [21]

In addition, without waiver relief, Huawei will be subject to requirements that should not apply to these products; that is, compliance with both the IEC 62680–1–2:2017 specification and the current DOE test procedure requirements for these adaptive EPSs, simultaneously, is not possible. Further, Huawei's ability to distribute its adaptive EPSs in commerce in the United States will be impaired, thereby placing Huawei at a competitive disadvantage in relation to other manufacturers and distributors absent a favorable determination by DOE.[22] For all of the reasons outlined above, Huawei likewise requests an interim waiver for the basic models of the adaptive EPSs listed in Appendix I.

V. List of Manufacturers

A list of manufacturers of all other basic models of adaptive ESPs distributed in commerce in the United States and known to Huawei that incorporate design characteristic(s) similar to those found in the basic models that are the subject of the petition is provided in Appendix II. The list is identical to the list included in the earlier petitions with the addition of the four petitioners.[23]

* * * * *

Huawei requests expedited consideration of this Waiver Petition and Application for Interim Waiver and is willing to promptly provide any additional information DOE believes may be necessary for that purpose.

VI. Conclusion

DOE should grant the requested waiver and interim waiver for the basic models of adaptive EPSs listed in Appendix I.

Respectfully submitted,

Huawei Technologies, Co. Ltd.

Dennis J. Amari,

Director, Federal & Regulatory Affairs, 875 15th Street, NW, Suite 825, Washington DC 20005, (202) 289–6510, dennis.amari@huawei.com

December 1, 2017

APPENDIX I

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models:

Model	Product Type	Nameplate Input Rating (AC)	Nameplate Output Rating (DC)
HW–200200UPX	Adaptive Single Voltage External Power Supply.	100–240V~, 50–60Hz,1.2A	Highest output voltage: 20V, 2A (40W)Lowest output voltage: 5V, 3A (15W).
HW–200300UPX	Adaptive Single Voltage External Power Supply.	100–240V~, 50–60Hz,1.8A	Highest output voltage: 20V, 3A (60W)Lowest output voltage: 5V, 3A (15W).
HW–200325UPX	Adaptive Single Voltage External Power Supply.	100–240V~, 50–60Hz,1.8A	Highest output voltage: 20V, 3.25A (65W)Lowest output voltage: 5V, 3A (15W).
HW–200500UPX	Adaptive Single Voltage External Power Supply.	100–240V~, 50–60Hz,2.0A	Highest output voltage: 20V, 5A (100W)Lowest output voltage: 5V, 3A (15W).

APPENDIX II

The following are manufacturers of all other basic models distributed in commerce in the United States and known to Huawei to incorporate design characteristics similar to those found in the basic models that are the subject of the petition for waiver:

Acbel
Active-Semi, Inc.
Apple, Inc.
Bitland
Chicony Power Technology
Chrontel, Inc.
Dell

[17] *See Id.*

[18] *See* 82 FR 34294, 34296 (July 24, 2017).

[19] *See Id.*

[20] *See* 82 FR 34294, 34296 (July 24, 2017).

[21] *See Id.*

[22] *See* 10 CFR 430.27(B)(2).

[23] *See* Apple Petition, Appendix II at 13; Microsoft Petition, Appendix II at 12; Poin2 Lab. Petition, Appendix II at 12; *and* Hefei Petition, Appendix II at 12.

Honor Electronic Co., Ltd.
Huntkey
Ever Win International Corp.
Griffin Technology LLC
LG Electronics USA, Inc
Liteon
Lucent Trans Electronics Co., Ltd.
Microsoft Corporation
Mobileconn Technology Co., Ltd.
Phihong Technology Co., Ltd.
Poin2 Lab
Renesas Electronics Corp.
Salcomp Plc
Samsung
STMicroelectronics
Superior Communications
Texas Instruments
Ventev Mobile
Weltrend Semiconductor
Xentris Wireless

Sources include: ''*USB Power Brick*'', *USB Implementers Forum, Inc., http://www.usb.org/kcomplianceview/CertifiedUSBPowerBricks.pdf*

[FR Doc. 2018–05939 Filed 3–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–336–B]

Application To Export Electric Energy; ConocoPhillips Company

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: ConocoPhillips Company (COP or Applicant) has applied to renew its authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before April 23, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 16, 2013, DOE issued Order No. EA–336–A to COP which authorized the Applicant to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. That authority expires on April 16, 2018. On February 13, 2018, COP filed an application with DOE for renewal of the export authority contained in Order No. EA–336–A for an additional five-year term.

In its application, COP states that it does not own or operate any electric generation or transmission facilities. The electric energy that COP proposes to export to Mexico would be purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by COP have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning COP's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–336–B. An additional copy is to be provided directly to both Casey P. McFaden and Robert F. Bonner, ConocoPhillips Company, 600 North Dairy Ashford, Houston, TX 77079.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

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

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2018–05942 Filed 3–22–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–55–000.

Applicants: EAM Nelson Holding, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Palisades, LLC, Entergy Nuclear Power Marketing, LLC, Entergy Power, LLC, EWO Marketing, LLC, RS Cogen, LLC.

Description: Supplement to February 8, 2018 Joint application of EAM Nelson Holding, LLC, et al., for FPA Section 203 authorization.

Filed Date: 3/15/18.

Accession Number: 20180315–5157.

Comments Due: 5 p.m. ET 3/26/18.

Docket Numbers: EC18–71–000.

Applicants: NorthWestern Corporation, NJR Clean Energy Ventures II Corporation.

Description: Application of NorthWestern Corporation, et al. for FPA Section 203 Authorization.

Filed Date: 3/16/18.

Accession Number: 20180316–5134.

Comments Due: 5 p.m. ET 4/6/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1–003.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing: 2018–03–16 Reliability Services Initiative Phase 1b and Phase 2 Compliance to be effective 3/16/2018.

Filed Date: 3/16/18.

Accession Number: 20180316–5077.

Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER10–2063–002.

Applicants: Otter Tail Power Company.

Description: Errata to December 28, 2017 Triennial MBR Report for Central Region of Otter Tail Power Company.

Filed Date: 3/15/18.

Accession Number: 20180315–5148.
Comments Due: 5 p.m. ET 4/5/18.

Docket Numbers: ER16–120–006.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: Amendment of 1/16/18 RMR compliance filing to be effective 10/20/2015.
Filed Date: 3/15/18.
Accession Number: 20180315–5140.
Comments Due: 5 p.m. ET 4/5/18.

Docket Numbers: ER18–815–002.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Second Errata Filing in Docket No. ER18–815 RE: Regulation Resource Credit to be effective 4/9/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5044.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1117–000.
Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.
Description: § 205(d) Rate Filing: 2018 Interchange Agreement Annual Filing to be effective 1/1/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5144.
Comments Due: 5 p.m. ET 4/5/18.

Docket Numbers: ER18–1128–000.
Applicants: Portland General Electric Company.
Description: § 205(d) Rate Filing: Amended NTTG Funding Agreement to be effective 5/15/2016.
Filed Date: 3/16/18.
Accession Number: 20180316–5039.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1130–000.
Applicants: PJM Interconnection, L.L.C., Mid-Atlantic Interstate Transmission, LLC, American Transmission Systems, Incorporation.
Description: § 205(d) Rate Filing: MAIT and ATSI submit Seven ECSAs SA Nos. 4866, 4867, 4868, 4887, 4888, 4889, 4925 to be effective 5/16/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5041.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1131–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to OATT Sch 12–Appx A re: RTEP Projects Approved by Board in Feb. 2018 to be effective 6/14/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5043.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1132–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: PSC–BLDR–SHGDIA & Dist. Wheeling Agrmts-Multi-0.0.0 to be effective 3/17/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5045.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1134–000.
Applicants: Flat Rock Windpower LLC.
Description: § 205(d) Rate Filing: Second Revised MBR Tariff to be effective 3/17/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5065.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1136–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: RES America Developments (Durant Bend Solar) LGIA Filing to be effective 3/5/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5081.
Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–1137–000.
Applicants: Flat Rock Windpower II LLC.
Description: § 205(d) Rate Filing: Second Revised MBR Tariff to be effective 3/17/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5084.
Comments Due: 5 p.m. ET 4/6/18.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR18–4–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition for Approval of Amended Compliance and Certification Committee Charter of North American Electric Reliability Corporation.
Filed Date: 3/15/18.
Accession Number: 20180315–5181.
Comments Due: 5 p.m. ET 4/5/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018–05952 Filed 3–22–18; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–463–000]

Florida Southeast Connection, LLC; Notice of Availability of the Environmental Assessment for the Proposed Okeechobee Lateral Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Okeechobee Lateral Pipeline Project (Project), proposed by Florida Southeast Connection, LLC (FSC) in the above-referenced docket. FSC requests authorization to construct and operate approximately 5.2 miles of 20-inch-diameter natural gas transmission pipeline and associated facilities in Okeechobee County, Florida.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. In addition, the EA is available for public viewing on the FERC's website (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential

environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before April 16, 2018.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP17–463) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You must select the type of filing you are making. If you are filing a comment on a particular project, please select Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search, and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP17–463). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: March 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05951 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1308–005; ER10–2334–005; ER10–2897–007; ER11–2765–003; ER11–3406–005; ER11–3407–005; ER12–1739–003; ER12–1865–006; ER12–1923–004; ER12–1924–004 ER12–1925–004; ER12–2310–006; ER18–140–004.

Applicants: Bethel Wind Energy LLC, Kingfisher Wind, LLC, Elk Wind Energy LLC, Zephyr Wind, LLC, Lackawanna Energy Center LLC, Big Savage, LLC, Big Sky Wind, LLC, EverPower Commercial Services LLC, Highland North LLC, Howard Wind LLC, Krayn Wind LLC, Mustang Hills, LLC, Patton Wind Farm, LLC.

Description: Notice of Non-Material Change in Status of the BlackRock MBR Affiliates and New BlackRock Affiliates.

Filed Date: 3/16/18.

Accession Number: 20180316–5232.

Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER17–156–004.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2018–03–19_Additional Compliance for Queue Reform Attachment X to be effective 1/4/2017.

Filed Date: 3/19/18.

Accession Number: 20180319–5117.

Comments Due: 5 p.m. ET 4/9/18.

Docket Numbers: ER17–827–001.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: Compliance filing: 2018–03–14_Entergy Operating Companies Attachment O Errata Filing to be effective 6/1/2015.

Filed Date: 3/14/18.

Accession Number: 20180314–5198.

Comments Due: 5 p.m. ET 4/4/18.

Docket Numbers: ER17–827–003.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, Inc.

Description: Compliance filing: 2018–03–19_Filing to implement Entergy settlement in ER17–2579; ER15–1436; et al to be effective 6/1/2015.

Filed Date: 3/19/18.

Accession Number: 20180319–5120.

Comments Due: 5 p.m. ET 4/9/18.

Docket Numbers: ER18–581–001.

Applicants: Public Service Company of New Mexico.

Description: Tariff Amendment: Response to Deficiency Letters to be effective 12/18/2017.

Filed Date: 3/16/18.

Accession Number: 20180316–5184.

Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–582–001.

Applicants: Public Service Company of New Mexico.

Description: Tariff Amendment: Response to Deficiency Letters to be effective 12/18/2017.

Filed Date: 3/16/18.

Accession Number: 20180316–5186.

Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–583–001.

Applicants: Public Service Company of New Mexico.

Description: Tariff Amendment: Response to Deficiency Letters to be effective 12/18/2017.

Filed Date: 3/16/18.

Accession Number: 20180316–5190.

Comments Due: 5 p.m. ET 4/6/18.

Docket Numbers: ER18–584–001.

Applicants: Public Service Company of New Mexico.

Description: Tariff Amendment: Response to Deficiency Letters to be effective 12/20/2017.

Filed Date: 3/16/18.
Accession Number: 20180316–5192.
Comments Due: 5 p.m. ET 4/6/18.
Docket Numbers: ER18–585–001.
Applicants: Public Service Company of New Mexico.
Description: Tariff Amendment: Response to Deficiency Letters to be effective 12/20/2017.
Filed Date: 3/16/18.
Accession Number: 20180316–5198.
Comments Due: 5 p.m. ET 4/6/18.
Docket Numbers: ER18–832–001.
Applicants: Public Service Company of New Mexico.
Description: Tariff Amendment: Response to Deficiency Letters to be effective 1/29/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5201.
Comments Due: 5 p.m. ET 4/6/18.
Docket Numbers: ER18–907–001.
Applicants: Public Service Company of New Mexico.
Description: Tariff Amendment: Response to Deficiency Letters to be effective 2/9/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5202.
Comments Due: 5 p.m. ET 4/6/18.
Docket Numbers: ER18–1128–001.
Applicants: Portland General Electric Company.
Description: Tariff Amendment: Amended NTTG Funding Agreement—Amendment Filing to be effective 5/15/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5174.
Comments Due: 5 p.m. ET 4/6/18.
Docket Numbers: ER18–1139–000.
Applicants: Northern Indiana Public Service Company.
Description: § 205(d) Rate Filing: Revisions to MBR Tariff to be effective 2/16/2018.
Filed Date: 3/19/18.
Accession Number: 20180319–5071.
Comments Due: 5 p.m. ET 4/9/18.
Docket Numbers: ER18–1140–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 305 10th Rev—NITSA with Stillwater Mining Company to be effective 5/19/2018.
Filed Date: 3/19/18.
Accession Number: 20180319–5157.
Comments Due: 5 p.m. ET 4/9/18.
Docket Numbers: ER18–1141–000.
Applicants: Greenidge Generation LLC.
Description: § 205(d) Rate Filing: Notice of Material Change to be effective 1/10/2018.
Filed Date: 3/19/18.
Accession Number: 20180319–5167.
Comments Due: 5 p.m. ET 4/9/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05954 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3102–025]

Notice Approving Use of the Traditional Licensing Process; Jason and Carol Victoria Presley

a. *Type of Filing:* Notice Approving the Use of the Traditional Licensing Process
b. *Project No.:* 3102–025.
c. *Date Filed:* November 1, 2017.
d. *Submitted By:* Jason and Carol Victoria Presley.
e. *Name of Project:* High Shoals Project.
f. *Location:* On the Apalachee River in Walton, Morgan, and Oconee Counties, Georgia. The project does not occupy federal lands.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Jason Presley and Ms. Carol Victoria Presley, 110 Frazier Hill Road, Bishop, GA. 30621, (706) 769–8293, email: *jason@presley.us, victoria@presley.us.*
i. *FERC Contact:* Michael Spencer at (202) 502–6093 or email at *michael.spencer@ferc.gov.*
j. In a letter dated March 1, 2018, the Director of the Division of Hydropower Licensing approved Jason and Carol Victoria Presley's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Georgia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Jason and Carol Victoria Presley filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

n. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3102. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 30, 2019.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05950 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–102–000]

Notice of Application; Cheyenne Connector, LLC

On March 5, 2018, Cheyenne Connector, LLC (Cheyenne Connector), 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations seeking: (1) A certificate of public convenience and necessity authorizing Cheyenne Connector to construct, own and operate a new natural gas pipeline system consisting of approximately 70 miles of 36-inch-diameter pipeline, four receipt meters and one delivery meter all located in Weld County, Colorado; (2) a blanket certificates authorizing Cheyenne Connector to engage in certain self-implementing routine activities pursuant to blanket certificate authority under Part 157, Subpart F of the Commission's regulations; and (3) a blanket certificate to transport natural gas on an open-access and self-implementing basis under Part 284, Subpart G of the Commission's regulations, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding Cheyenne Connector's application should be directed to David Haag, Vice President and Chief Compliance Officer, Cheyenne Connector, LLC, 370 Van Gordon Street, Lakewood, Colorado 80228–1519, or phone (303) 763–3258 or by email *david.haag@tallgrassenergylp.com.*

Specifically, Cheyenne Connector states that upon construction of the proposed facilities, Cheyenne Connector will be able to transport up to 600,000 dekatherms per day of natural gas from producers in the Rocky Mountains to an interconnect at the Cheyenne Hub, located in Weld County, Colorado for further transportation by Rockies Express Pipeline LLC (Rockies Express) and/or other pipelines. In conjunction with this filing, Rockies Express filed an application under Docket No. CP18–103–000 to construct and operate certain booster compression units and ancillary facilities at the Cheyenne Hub, in Weld County, Colorado to provide new hub service allowing for firm receipts and deliveries between Rockies Express and other interconnected pipelines at the Cheyenne Hub.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern time on April 9, 2018.

Dated: March 19, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05977 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–1106–000]

Kestrel Acquisition, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Kestrel Acquisition, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 5, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05949 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL17–32–000, EL17–36–000]

Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C.; Advanced Energy Management Alliance v. PJM Interconnection, L.L.C.; Notice of Request for Comments and Technical Conference

Take notice that a staff-led conference will be held on April 24, 2018, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, between 9:30 a.m. and 4:15 p.m. (EDT). The purpose of the conference is to obtain further information concerning the above referenced proceedings. Supplemental notices will be issued prior to the technical conference with further details regarding the agenda, speakers, and organization of the technical conference. Commission staff will lead the conference, and Commissioners may attend.

On February 23, 2018, the Commission issued an order directing Commission staff to convene a technical conference and issue a request for comments in the above captioned dockets.[1] In advance of this conference, interested parties are asked to file comments on the following questions:

1. According to complainants, PJM indicated in the stakeholder process that a procurement of 80 percent Capacity Performance and 20 percent Base Capacity yields a near-zero loss of load expectation (LOLE) over 42 (non-summer peak) weeks of the year. Do these results provide information about the value of lost load in 10 peak-summer weeks versus the rest of the year? Is placing the majority of loss-of-load risk in 10 peak-summer weeks an appropriate allocation of risk for purposes of meeting the 1-in-10 LOLE target in a cost-effective manner? If yes, please explain why. If not, what would be a better distribution of risk that can still satisfy the 1-in-10 LOLE target?

2. How is the conclusion that PJM's current capacity procurement yields a near-zero LOLE in the winter consistent with PJM's experience in the Polar Vortex? How does the LOLE calculation take into account outage-related factors, for instance, planned maintenance outages are typically scheduled only during non-summer months?

3. Complainants argue that it is appropriate to procure more capacity for the summer months than for the non-summer months. What would be the advantages and disadvantages of (a) procuring this capacity by using annual and summer-only capacity products in a single auction, as PJM did in the past, versus (b) creating two distinct auctions, and procuring summer capacity in one auction and non-summer capacity in the other? Are there other viable methods to meet this objective? If so, please describe them.

4. Does PJM's load forecasting methodology reasonably reflect peak shaving efforts by end users?

a. What is the basis for the current load forecasting methodology and what are its advantages within the context of peak shaving practices?

b. Are there aspects of the current load forecasting methodology that can be improved and may be incorrect or resulting in unreasonable outcomes within the context of peak shaving practices?

c. Are there alternative methodologies to reflect peak shaving efforts? If so, what are they and are there obstacles to implementing them?

Preliminary comments responding to this notice should be submitted, in Docket Nos. EL17–32–000 and EL17–36–000, on or before April 4, 2018 and should not exceed 15 pages. Parties will have an opportunity to submit comments after the conference as well. Comments may be filed electronically via the internet. See the instructions on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The conference will be open for the public to attend. Advance registration is not required but is highly encouraged. Attendees may register at the following web page: *http://www.ferc.gov/whats-new/registration/04-24-18-form.asp.* Attendees should allow time to pass through building security procedures before the 9:30 a.m. (EDT) start time of the technical conference. In addition, information on this event will be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

Those also interested in speaking at the technical conference should notify the Commission by March 28, 2018 by completing the online form at the following web page: *http://*

[1] *Old Dominion Elec. Coop.* v. *PJM Interconnection, L.L.C.,* 162 FERC 61,160 (2018).

www.ferc.gov/whats-new/registration/04-24-18-speaker-form.asp.

The technical conference will be transcribed and will be part of the record in these proceedings. Transcripts will be available for a fee from Ace-Federal Reports, Inc. (202–347–3700). There will be a free webcast of the conference. The webcast will allow persons to listen to the technical conference, but not participate. Anyone with internet access who wants to listen to the conference can do so by navigating to the Calendar of Events at *www.ferc.gov* and locating the technical conference in the Calendar. The technical conference listing on the calendar will contain a link to its webcast.

The Capitol Connection provides technical support for the webcast and offers the option of listening to the meeting via phone-bridge for a fee. The phone bridge must be requested at least 24 hours in advance of the meeting. If you have any questions, visit *www.CapitolConnection.org* or call 703–993–3100. The webcast will be available on the Calendar of Events on the Commission's website *www.ferc.gov* for three months after the conference.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact:

Sarah McKinley (Logistical Issues), Office of External Affairs, 202–502–8368, *sarah.mckinley@ferc.gov*

John Riehl (Technical Issues), Office of Energy Market Regulation, 202–502–6026, *john.riehl@ferc.gov*

Noah Monick (Legal Issues), Office of General Counsel, 202–502–8299, *noah.monick@ferc.gov*

Dated: March 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05948 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–490–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Rivervale South to Market Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this environmental assessment (EA) for the Rivervale South to Market Project (Project) proposed by Transcontinental Gas Pipe Line Company, LLC (Transco) in the above-referenced docket. Transco requests authorization to construct and operate natural gas pipeline facilities in Bergen and Hudson Counties, New Jersey. The Project would enable Transco to transport an additional 190 million cubic feet of natural gas per day.

The EA assesses the potential environmental effects of the construction and operation of the Project in accordance with the National Environmental Policy Act. The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The Project would involve the following activities in the specified counties in New Jersey:

- Construct 0.61 mile of 42-inch-diameter pipeline loop [1] along Transco's Mainline A, from milepost 1825.80 to 1826.41 (Bergen County);
- Uprate 10.35 miles of existing 24-inch-diameter-pipeline (North New Jersey Extension) from a maximum allowable operating pressure of 650 pounds per square inch gauge to 812 pounds per square inch gauge from the Paramus Meter and Regulation Station (M&R) to the Orange and Rockland M&R (Bergen County);
- Upgrade the existing valves, including overpressure protection valves, and yard piping at the Central Manhattan M&R (Hudson County) and Orange and Rockland M&R (Bergen County);
- Construct regulation and overpressure protection valves and upgrade yard piping at the Emerson M&R and Paramus M&R (Bergen County); and
- Construct additional facilities, such as mainline valves, cathodic protection, pig [2] launchers and receivers, communication equipment, and related appurtenant underground and aboveground facilities.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and local media in the Project area. In addition, the EA is available for public viewing on the FERC's website (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Conference Room, 888 First Street NE, Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that the FERC receives your comments in Washington, DC on or before April 16, 2018.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (CP17–490–000) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by

[1] A loop is a segment of pipe that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[2] A pig is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

attaching them as a file with your submission. New eFiling users must first create an account by clicking on eRegister. You will be asked to select the type of filing you are making. A comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[3] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on General Search, and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP17–490). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/docs-filing/esubscription.asp.*

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05967 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

[3] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–103–000]

Notice of Application; Rockies Express Pipeline LLC

On March 5, 2018, Rockies Express Pipeline LLC (Rockies Express), 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations requesting a certificate of public convenience and necessity authorizing the construction and operation of certain booster compression units and ancillary facilities located at the Cheyenne Hub, in Weld County, Colorado to enable Rockies Express to provide a new hub service allowing for firm receipts and deliveries between Rockies Express and other interconnected pipelines at the Cheyenne Hub, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding Rockies Express' application should be directed to David Haag, Vice President and Chief Compliance Officer, Cheyenne Connector, LLC, 370 Van Gordon Street, Lakewood, Colorado 80228–1519, or phone (303) 763–3258 or by email *david.haag@tallgrassenergylp.com.*

Specifically, Rockies Express states that the proposed facilities will enable Rockies Express to receive up to 600,000 dekatherms per day (Dth/d) of natural gas from Cheyenne Connector, LLC which filed an application under CP18–102–000 for authorization to construct, own and operate a new natural gas pipeline system capable of transporting up to 600,000 Dth/d.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be

required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on April 9, 2018.

Dated: March 19, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05976 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Order on Intent To Revoke Market-Based Rate Authority

Before Commissioners: Kevin J. McIntyre, Chairman; Cheryl A. LaFleur, Neil Chatterjee, Robert F. Powelson, and Richard Glick.

	Docket Nos.
Electric Quarterly Reports	ER02–2001–020
Fibrominn LLC	ER12–1161–002
BluCo Energy LLC	ER12–1279–000
Alternate Power Source Inc	ER11–4550–000
Atlantic Coast Energy Corporation.	ER13–734–000

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2012), and 18 CFR part 35 (2017), require, among other things, that all rates, terms, and conditions for jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports.[1]

2. The Commission requires sellers with market-based rate authorization to file Electric Quarterly Reports summarizing contractual and transaction information related to their market-based power sales as a condition for retaining that authorization.[2] Commission staff's review of the Electric Quarterly Reports indicates that the following four public utilities with market-based rate authorization have failed to file their Electric Quarterly Reports: Fibrominn LLC, BluCo Energy LLC, Alternate Power Source Inc., and Atlantic Coast Energy Corporation. This order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that:

> [i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.[3]

4. The Commission further stated that:

> [o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.[4]

5. Pursuant to these requirements, the Commission has revoked the market-based rate tariffs of market-based rate sellers that failed to submit their Electric Quarterly Reports.[5]

6. Sellers must file Electric Quarterly Reports consistent with the procedures set forth in Order Nos. 2001, 768,[6] and 770.[7] The exact filing dates for Electric Quarterly Reports are prescribed in 18 CFR 35.10b (2017). As noted above, Commission staff's review of the Electric Quarterly Reports for the period up to the third quarter of 2017 identified four public utilities with market-based rate authorization that failed to file Electric Quarterly Reports. Commission staff contacted or attempted to contact these entities to remind them of their regulatory obligations. Despite these reminders, the public utilities listed in the caption of this order have not met these obligations. Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

7. In the event that any of the above-captioned market-based rate sellers has already filed its Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

8. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff.

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all delinquent Electric Quarterly Reports. If a public utility subject to this order fails

[1] *Revised Public Utility Filing Requirements,* Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 120 FERC ¶ 61,270, *order on reh'g and clarification,* Order No. 2001–H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, FERC Stats. & Regs. ¶ 31,282 (2008). *See also Filing Requirements for Electric Utility Service Agreements,* 155 FERC ¶ 61,280, *order on reh'g and clarification,* 157 FERC ¶ 61,180 (2016) (clarifying Electric Quarterly Reports reporting requirements and updating Data Dictionary).

[2] *See Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 816, FERC Stats. & Regs. ¶ 31,374 (2015), *order on reh'g,* Order No. 816–A, 155 FERC ¶ 61,188 (2016); *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 3, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011), *cert. denied,* 133 S. Ct. 26 (2012).

[3] Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 222.

[4] *Id.* P 223.

[5] *See, e.g., Electric Quarterly Reports,* 82 FR 60,976 (Dec. 26, 2017); *Electric Quarterly Reports,* 80 FR 58,243 (Sep. 28, 2015); *Electric Quarterly Reports,* 79 FR 65,651 (Nov. 5, 2014).

[6] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g,* Order No. 768–A, 143 FERC ¶ 61,054 (2013), *order on reh'g,* Order No. 768–B, 150 FERC ¶ 61,075 (2015).

[7] *Revisions to Electric Quarterly Report Filing Process,* Order No. 770, FERC Stats. & Regs. ¶ 31,338 (2012).

to make the filings required in this order, the Commission will revoke that public utility's market-based rate authorization and will terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Issued: March 19, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05975 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–37–000.
Applicants: ONEOK Texas Gas Storage, L.L.C.
Description: Tariff filing per 284.123(b),(e)+(g): OTGS FERC 311 Rate Change to be effective 3/14/2018.
Filed Date: 3/14/18.
Accession Number: 201803145060.
Comments Due: 5 p.m. ET 4/4/18.
284.123(g) Protests Due: 5 p.m. ET 5/14/18.

Docket Numbers: CP18–107–000.
Applicants: South Pipeline Company, LP.
Description: South Pipeline Company, LP Application to Abandon X-Rate Schedules between Gulf South and Southern Natural.
Filed Date: 3/9/18.
Accession Number: 20180309–5228.
Comments Due: 5 p.m. ET 3/30/18.

Docket Numbers: RP18–244–001.
Applicants: National Fuel Gas Supply Corporation.
Description: Compliance filing Security Administrator Compliance Filing to be effective 4/19/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5103.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP18–245–001.
Applicants: Empire Pipeline, Inc.
Description: eTariff filing per 580(TheirDescription)DT–A: Empire Security Admin Compliance Filing to be effective 4/19/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5106.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP18–561–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Service Agreement—BP LPS 4/1/2018 to be effective 4/1/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5023.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP18–562–000.
Applicants: Empire Pipeline, Inc.
Description: § 4(d) Rate Filing: Fuel Tracket Tracker (Empire tracking Supply) 2018 to be effective 4/1/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5062.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP18–563–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: Neg Rate 2018–03–15 CP to be effective 3/15/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5104.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP18–564–000.
Applicants: Golden Pass Pipeline LLC.
Description: Golden Pass Pipeline LLC submits tariff filing per 154.204: Revision to GPPL 2018 Annual Retainage Report to be effective 4/1/2018.
Filed Date: 3/15/18.
Accession Number: 20180315–5107.
Comments Due: 5 p.m. ET 3/22/18.

Docket Numbers: RP18–565–000.
Applicants: RRI Energy Services, LLC, Kestrel Acquisition, LLC.
Description: Joint Petition of RRI Energy Services, LLC, et al. for Limited Waiver of Capacity Release Regulations and Tariff Provisions.
Filed Date: 3/15/18.
Accession Number: 20180315–5110.
Comments Due: 5 p.m. ET 3/27/18.

Docket Numbers: RP17–598–003.
Applicants: Great Lakes Gas Transmission Limited Partnership.
Description: Compliance filing Settlement Compliance to RP17–598 to be effective 10/1/2017.
Filed Date: 3/16/18.
Accession Number: 20180316–5003.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–264–002.
Applicants: Destin Pipeline Company, L.L.C.
Description: Compliance filing Mid-Year Fuel Retention Adjustment to be effective 5/1/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5207.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–536–001.
Applicants: American Midstream (Midla), LLC.
Description: Tariff Amendment: Annual Fuel, Lost and Unaccounted-for Gas Percentage Filing Amendment to be effective 4/1/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5037.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–566–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—to be effective 11/1/2017.
Filed Date: 3/16/18.
Accession Number: 20180316–5000.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–567–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Bay State release to Sequent 796084 to be effective 5/1/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5005.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–568–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Compliance filing Pro Forma Pooling Charges Zones 5 and 6.
Filed Date: 3/16/18.
Accession Number: 20180316–5094.
Comments Due: 5 p.m. ET 3/28/18.

Docket Numbers: RP18–569–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Compliance filing GXP Implementation Compliance Filing to be effective 4/1/2018.
Filed Date: 3/16/18.
Accession Number: 20180316–5133.
Comments Due: 5 p.m. ET 3/28/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/*

docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05953 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP18–102–000; CP18–103–000]

Cheyenne Connector, LLC; Rockies Express Pipeline LLC; Notice of Meeting Attendance

The environmental staff of the Federal Energy Regulatory Commission (Commission) will attend three informational public open house meetings sponsored by Cheyenne Connector, LLC and Rockies Express Pipeline LLC. The project sponsor (Tallgrass Energy Partners, LP) will have information on hand for two of its related proposed projects in Weld County, Colorado: The Cheyenne Connector Pipeline (approximately 70 miles of new 36-inch-diameter pipeline and five new meter and regulating stations) and the REX Cheyenne Hub Enhancement (a new 32,100 horsepower compressor station as well as modifications to the existing Cheyenne Hub facility). The meetings will be on April 3, 4, and 5, 2018, in Platteville, Eaton, and Kersey, Colorado, respectively.

Commission staff will be present to explain the Commission's environmental review process and answer related questions. For more information about the projects, including meeting details, visit Tallgrass Energy Partners, LP's website at *www.tallgrassenergylp.com/Projects.aspx.* Project-related questions can be directed to *AskCheyenneConnector@tallgrassenergylp.com* (or call 855–288–3997); or *AskCheyenneHub@tallgrassenergylp.com* (or call 855–211–1262).

Dated: March 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–05960 Filed 3–22–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9975–26—Region 6]

Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permit for ExxonMobil Corporation, ExxonMobil Baytown Olefins Plant, Harris County, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final Order on Petition for objection to Clean Air Act title V operating permit.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an Order dated March 1, 2018, denying a Petition dated August 8, 2016 from the Environmental Integrity Project, Sierra Club, and Air Alliance Houston. The Petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the Texas Commission on Environmental Quality (TCEQ) to ExxonMobil Corporation (ExxonMobil) for its Baytown Olefins Plant located in Harris County, Texas.

ADDRESSES: The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, the Petition, and other supporting information. You may review copies of the final Order, the Petition, and other supporting information at the EPA Region 6 Office, 1445 Ross Avenue, Dallas, Texas 75202–2733. 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. Additionally, the final Order and Petition are available electronically at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

FOR FURTHER INFORMATION CONTACT: Aimee Wilson, EPA Region 6, (214) 665–7596, *wilson.aimee@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 under title V of the CAA. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or unless the grounds for the issue arose after this period.

The EPA received the Petition from the Environmental Integrity Project, Sierra Club, and Air Alliance Houston dated August 8, 2016, requesting that the EPA object to the issuance of operating permit no. O1553, issued by TCEQ to ExxonMobil Baytown Olefins Plant in Harris County, Texas. The Petition claims that: (1) TCEQ did not have the authority to create a federally-enforceable PAL permit at the time PAL6 was issued, (2) the PAL6 permit is not federally enforceable because of alleged defects with how TCEQ calculated the facility's baseline emissions, and (3) PAL6 does not establish a PAL for $PM_{2.5}$.

On March 1, 2018, the EPA Administrator issued an Order denying the Petition. The Order explains the basis for EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than May 22, 2018.

Dated: March 16, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018–05970 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9038–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements

Filed 03/12/2018 Through 03/16/2018

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20180043, Final, USACE, NC, Holden Beach East End Shore Protection Project, Review Period

Ends: 04/23/2018, Contact: Mickey Sugg 910–251–4811

EIS No. 20180044, Final, USFS, WY, North Savery Project, Review Period Ends: 04/23/2018, Contact: Paula Guenther 307–745–2310 or 307–326–5258

EIS No. 20180045, Draft, NMFS, OR, Draft Environmental Impact Statement to Analyze Impacts of NOAA's National Marine Fisheries Service Proposed Approval of Hatchery and Genetic Management Plans for Spring Chinook Salmon, Steelhead, and Rainbow Trout in the Upper Willamette River Basin Pursuant to Section 4(d) of the Endangered Species Act, Comment Period Ends: 05/07/2018, Contact: Lance Kruzic 541–957–3381

EIS No. 20180046, Draft, BLM, WY, Draft Environmental Impact Statement: Riley Ridge to Natrona Project, Comment Period Ends: 05/07/2018, Contact: Mark Mackiewicz 435–636–3613

EIS No. 20180047, Draft Supplement, BLM, AK, Alpine Satellite Development Plan for the Proposed Greater Mooses Tooth 2 Development Project, Comment Period Ends: 05/07/2018, Contact: Stephanie Rice 907–271–3202

Dated: March 19, 2018.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2018–05893 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0141; FRL–9975–59]

Chlorpyrifos, Diazinon, and Malathion; National Marine Fisheries Service Biological Opinion Issued Under the Endangered Species Act; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is seeking comment on the final Biological Opinion (BiOp) issued under the Endangered Species Act (ESA) by the National Marine Fisheries Service (NMFS), regarding the potential effects of chlorpyrifos, malathion, and diazinon on federally listed threatened or endangered species (listed species) and their designated critical habitats.

DATES: Comments must be received on or before May 22, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2018–0141, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Tracy Perry, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 308–0128; email address: *Perry.Tracy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides and/or the potential impacts of pesticide use on listed species and designated critical habitat. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

C. How can I get copies of this document and other related information?

A copy of the *Biological Opinion on Pesticides: Chlorpyrifos, Diazinon, and Malathion* is available in the docket under docket identification (ID) number EPA–HQ–OPP–2018–0141.

II. What action is the Agency taking?

A. Authority

The ESA requires Federal agencies, such as EPA, to ensure that their actions are not likely to jeopardize the continued existence of species listed as threatened or endangered under the ESA, or destroy or adversely modify the designated critical habitat of such species. The registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) constitutes an EPA ''action'' under the ESA. If EPA determines a pesticide may affect a listed species or its designated critical habitat, EPA must initiate consultation with the U.S. Fish and Wildlife Service (FWS) or NMFS (the Service or Services), as appropriate. In response to a Federal agency initiating formal consultation, the Service(s) develops a BiOp in which it provides its opinion on whether the ''action'' is likely to jeopardize the continued existence of a listed species and/or is likely to destroy or adversely modify designated critical habitat and, if so, describes reasonable and prudent alternatives (RPAs) to avoid the determination. The BiOp will also address whether the action will result in incidental take of listed species and, if so, provide a statement specifying the amount of any permitted incidental take and setting forth reasonable and prudent measures (RPMs) necessary or appropriate to minimize the impact of such take.

B. Background

Consistent with EPA's responsibility under the ESA, on January 18, 2017, EPA released national-level endangered species Biological Evaluations (BEs) for chlorpyrifos, diazinon, and malathion to

assess risks to listed species from registered uses of these pesticides. These BEs were completed in accordance with the joint Interim Approaches developed to implement the recommendations of the April 2013 National Academy of Sciences (NAS) report, *Assessing Risks to Endangered and Threatened Species from Pesticides.* The NAS report outlined recommendations on specific scientific and technical issues related to the development of pesticide risk assessments that EPA and the FWS and NMFS must conduct to meet their obligations under the ESA. In November 2013, the Services, EPA, and the U.S. Department of Agriculture (USDA) released a white paper containing a summary of their joint Interim Approaches for assessing risks to listed species from pesticides. Details of the joint Interim Approaches are contained in the November 1, 2013 white paper *Interim Approaches for National-Level Pesticide Endangered Species Act Assessments Based on the Recommendations of the National Academy of Sciences April 2013 Report.* The methods developed as part of the joint Interim Approaches will continue to be vetted before EPA utilizes these methods broadly to meet its ESA obligations. Additional information on endangered species risk assessment and the NAS report recommendations are available at *https://www.epa.gov/endangered-species/implementing-nas-report-recommendations-ecological-risk-assessment-endangered-and.*

On December 29, 2017, in response to a court-ordered deadline in the case of *Nw. Coal. for Alternatives to Pesticides, et al.* v. *NMFS,* Stipulation and Order, Dkt. 50, No. 07–1791–RSL (D. Wash. May 21, 2014), NMFS transmitted to EPA its final BiOp regarding the effects of the registration review under section 3 of FIFRA of these pesticides on listed species. The BiOp addressed the effects of these three pesticides on 77 listed species and 50 designated critical habitats and, in sum, 38 different species would likely be jeopardized with extinction and 37 critical habitat units would be destroyed or adversely modified. NMFS had sought from the court, but was not provided, additional time to complete the BiOp. On January 8, 2018, EPA confirmed receipt of the BiOp and informed NMFS of EPA's intention to reinitiate informal consultation on the BiOp so that the consultation on the pesticides could be informed by (1) input from stakeholders, (2) further interagency discussion and agreement on the jeopardy determination interim methods, and (3) additional data and analysis, including consideration of the best scientific and commercial data available on use and usage information. On February 21, 2018, EPA sent NMFS a letter requesting informal consultation on the same action. EPA will use the information and analysis received and developed in the course of the informal consultation to inform whether formal reinitiation of consultation on the BiOp is appropriate.

C. Public Involvement Process

As a result of the U.S. District Court Western District of Washington at Seattle's failure to extend NMFS's court-ordered deadline, NMFS issued the final BiOp without having received input from the public and applicants (pesticide registrants), which is at odds with EPA's 2013 public stakeholder process for ESA consultations—an open and transparent process supported by the Services, EPA, and USDA. As explained in the 2013 public stakeholder document, stakeholder input is critical to the development and evaluation of any measures EPA may implement to address risks to listed species and designated critical habitat. Accordingly, EPA is seeking comment on the BiOp to receive stakeholder and public input prior to either reinitiating consultation on the BiOp or implementing the measures of BiOp. EPA will evaluate the input received in determining how it will proceed with respect to the final BiOp.

D. Public Comments Sought

The BiOp for chlorpyrifos, diazinon, and malathion is being included in the docket (EPA–HQ–OPP–2018–0141) to seek input on NMFS's jeopardy findings, RPMs and RPAs, and to solicit additional use and usage information. Specifically:

1. Comments on the scientific approaches and data sources used to support the BiOp and reach determinations for the listed species and critical habitat.

2. Comments on the RPAs and RPMs. Can they be reasonably implemented? If not, describe why not. Are there different measures that may provide equivalent protection to the ones in the BiOp but result in less impact to pesticide users?

3. Comments on national- and state-level use and usage data and information. In particular, EPA is seeking usage data and information for non-agricultural use sites (*e.g.,* nurseries, managed forests, pasture, rights-of-way, golf courses, and wide-area mosquito control). If possible, provide sources of data and information that should be considered.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 15, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2018–06026 Filed 3–22–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 16–271; DA 18–197]

Connect America Fund—Alaska Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireline Competition Bureau and Wireless Telecommunications Bureau, grant in part and deny in part the Alaska Telephone Association's Petition for Reconsideration of the Bureaus' Map Instructions PN and provide clarification regarding Alaska Plan carriers' map data filing obligations (map collection).

DATES: *Applicable date announcement:* July 1, 2018 filing date.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jesse Jachman, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in WC Docket No. 16–271; DA 18–197, adopted on February 28, 2018 and released on February 28, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554, or at the following internet address: *https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0228/DA-18-197A1.pdf.*

I. Introduction

1. In this Order, the Wireline Competition Bureau (WCB) and Wireless Telecommunications Bureau (WTB) (collectively the Bureaus), grant in part and deny in part the Alaska Telephone Association's (ATA) Petition for Reconsideration of the Bureaus' *Map Instructions PN* and provide clarification regarding Alaska Plan carriers' map data filing obligations (map collection). The Bureaus grant the Petition in part with respect to the required data accuracy standard for the

map collection due to be filed in 2018 and extend the March 1, 2018 submission deadline until July 1, 2018. The Bureaus also provide clarification regarding the data to be filed regarding ''community anchor institutions'' (CAI or anchor institutions). The Petition is denied in all other respects.

II. Discussion

2. The Bureaus deny ATA's Petition with respect to its request for the Bureaus to largely forgo the collection of cell-site backhaul and CAI data. Therefore, carriers must submit cell sites and CAIs with their associated links and update that data on a yearly basis as described in the following.

3. As an initial matter, the Bureaus conclude that ATA's narrow interpretation of the scope of the initial map collection is contrary to the most reasonable reading of the relevant Commission rule, section 54.316(a)(6). ATA does not address the meaning of this rule in its Petition. The first sentence of that rule does not specifically restrict the map collection to ''middle-mile'' or ''backhaul'' facilities and states that carriers ''shall submit fiber network maps or microwave network maps covering eligible areas.'' The language in the rule's second sentence, by its terms, states that carriers should provide map updates for ''middle-mile'' facilities. The rule language should be read in the context of the *Alaska Plan Order,* 81 FR 69696, October 7, 2016 and its discussion of the facilities that may affect carriers' ability to provide 10/1 Mbps service to end-users. Because the *Alaska Plan Order* uses multiple terms to describe such facilities, and, as explained in the following, the presence and quality of cell-site backhaul and connections to many CAIs do in fact affect carriers' ability to meet their current and future commitments over last-mile facilities, the Commission intended the rule requiring the submission of ''fiber network maps or microwave network maps'' and ''middle mile'' data to be read broadly to include cell-site backhaul and CAIs.

4. The Bureaus note that the WTB also has the authority to collect this same data upon request regardless of whether those facilities fall within the scope of the map collection in section 54.316(a)(6). Specifically, the WTB may request ''additional data'' regarding facilities relevant to ''determining whether or not [participating mobile carriers] meet their five- and 10-year commitments.'' Carriers' performance commitments are broken down and differentiated by the type of facilities (satellite, fiber, fixed wireless) supporting the committed speed and technology (*e.g.,* LTE) of the last-mile connections serving particular end-user populations. Information regarding the location of cell-site backhaul, CAIs and associated links may be collected by the WTB upon request because they are necessary to determining whether carriers' differentiated commitments are or could be met.

5. *Cell-Site Backhaul.* Notwithstanding the obligation of carriers to submit cell-site backhaul data pursuant to the plain meaning of section 54.316(a)(6), ATA's position that the map collection is restricted to ''middle-mile'' facilities as defined in the CAM rests on an incorrect reading of the *Alaska Plan Order.* The *Alaska Plan Order* does not, as ATA argues, define ''middle-mile'' and/or ''backhaul'' to mean solely the connection between central offices. Rather, these terms are used to describe the entire connection between the last mile and internet gateway. A cell-site backhaul facility is a subset of this connection.

6. The Commission adopted a more expansive meaning of these terms in the *Alaska Plan Order* to enable it to identify the ''weak-links'' in carriers' networks that affect carriers' current and future commitments. As noted in the OBI Technical Paper #1 that ATA cites, cell-site backhaul *and* connections between central offices ''can quickly become the choke point'' and ''adequate [cell-site] backhaul is one of the key drivers for providing wireless broadband.'' The Bureaus agree with ATA that high-capacity connections between central offices are relevant to an assessment of whether carriers can meet their commitments to end-users within the exchanges served by those central offices. Such high capacity connections are not, however, sufficient for such an assessment.

7. ATA also does not explain why cell-site backhaul should be considered ''last mile'' and therefore excluded from the collection. Indeed, as ATA acknowledges, the ordinary meaning of ''backhaul,'' in the wireless context refers to the ''connections that link a mobile wireless service provider's cell sites to the mobile switching centers . . . .'' On the other hand, a ''last mile'' facility is the connection from the end-user's handset or terminal to the ''first point of aggregation,'' such as a ''wireless tower location.'' *The Map Instructions* do not require the submission of the ''last-mile'' wireless end-users' location data.

8. The *Alaska Plan Order* requirement for carriers to submit data regarding facilities that lie between the ''last mile'' and the ''internet gateway'' is also consistent with the logical structure of the *Alaska Plan Order* itself. The *Alaska Plan Order* describes carriers' networks as a three-part model. Specifically, the *Alaska Plan Order* separately describes the (1) ''last mile''—reflected in the bandwidth and price commitments provided to consumers via wired and wireless facilities and, for wireless commitments, the last-mile wireless technology to be deployed, such as LTE—(2) ''middle mile'' and/or ''backhaul'' facilities which connect last mile facilities to the internet gateway and affect the ability of the carrier to meet its last-mile commitments; and (3) the internet gateway and the internet beyond. Under this three-part model, network components other than (1) or (3) and which can affect the ability of the carrier to meet its last mile commitments are (2): ''middle mile'' and/or ''backhaul.'' As explained, because cell-site backhaul is not considered ''last mile'' for purposes of this map filing requirement and is clearly not the ''internet gateway,'' it must be ''middle mile'' and/or ''backhaul.''

9. This broad meaning of ''middle mile'' and ''backhaul'' is also consistent with the common understanding of these terms in the wireless industry and has been adopted by the Petitioner in other contexts. For example, ATA member GCI, in providing a cost model for wireless facilities in Alaska, used the term ''backhaul'' to describe both (1) ''cell-site backhaul'' and (2) the connection to central ''hubs'' in three Alaskan cities. In that instance, GCI stated that the quality of the last-mile connection is dependent on the robustness of both (1) and (2) and argued that the cost of upgrading both segments is a barrier to providing higher speed last-mile services to Alaskan end-users.

10. The Bureaus grant the Petition in part to the extent it seeks relief from the March 1, 2018 deadline, and the 7.6-meter accuracy requirement. By providing this relief, the Bureaus allow carriers limited flexibility and time to submit data in a way that takes into consideration the particular challenges carriers in Alaska face (*e.g.,* difficult seasonal weather) while also ensuring the Commission is provided with the data it required for implementing the Plan. The Bureaus also clarify the obligation to report data with respect to CAIs. The Petition is denied in all other respects.

11. *Deadline Extension.* The Bureaus grant the Petition to the extent that it seeks a deadline extension and extend the filing deadline for the initial map data submission from March 1, 2018, to

July 1, 2018. On February 1, 2018, the Office of Management and Budget approved the collection under the Paperwork Reduction Act (PRA) and the rules became effective on February 15, 2018. The Bureaus find that an extension of the deadline under section 54.316 is appropriate in this case because a July 1, 2018 deadline will ensure that carriers will have sufficient time following the recent PRA approval to finalize any data submitted into the High Cost Universal Service Broadband (HUBB) portal and aligns with the Form 481 filing deadline. Additionally, carriers are submitting middle-mile data to the HUBB portal for the first time, and carriers and USAC may need additional time to address any problems or concerns that may arise at the time of filing. This extension will also allow carriers additional time to gather as accurate data as possible in the first filing cycle. Alaska Plan participants will now have nearly ten months of preparation time to gather and submit the data from the release of the initial *Map Instructions.* This extension does not affect the filing deadline in subsequent years or the March 1, 2018 deadline for the submission of Alaska wireline location data.

12. *Accuracy.* The Bureaus grant in part and deny in part ATA's request to collect and submit data at a lower level of accuracy than 7.6 meters. Specifically, the Bureaus permit carriers to collect and submit ''estimated'' data to within 50 meters of accuracy for the filing due by July 1, 2018 where data at 7.6 meters is unavailable. This relief is appropriate given the recent effective date of the data collection in February combined with the challenging weather conditions in Alaska, and the fact that ''estimated'' data (in the limited cases where 7.6-meter data is unavailable) for the 2018 submission will not inhibit efforts of the Bureaus to implement the Plan.

13. The Bureaus have authority to set an accuracy threshold in the instructions. Indeed, ATA submitted its own, alternative 1000-meter threshold. The Commission delegated to the Bureaus the authority to provide a common format for map submissions, which necessarily includes a mutually understood accuracy standard. Maps cannot be properly evaluated without a mutually understood and agreed upon accuracy standard. As explained in the following, both the 50-meter and 7.6-meter accuracy standards meet that test.

14. The Bureaus conclude that, on balance, the overall benefit of the data accuracy requirements, as modified here, outweighs any burden on carriers. While the Bureaus need to and will, under these modified instructions, obtain data accurate to 7.6 meters by 2019, the relief the Bureaus provide will greatly reduce carriers' burden to collect that data. A one-year delay in providing data at a 7.6-meter level of accuracy should allow ATA members to collect and submit estimated data using desktop software while largely allowing the collection of more accurate data through site visits as necessary in the normal course of business. Carrier estimated data, combined with 7.6-meter data already in the carriers' possession, are sufficient for the Bureaus to assess carriers' compliance, infrastructure limitations, and progress at the initial stages of the first five-year plan.

15. For the filings due in 2018, carriers may provide an initial ''estimate'' for nodes and links based on data generated by generally available desktop software. Where a carrier lacks sufficient internal digital data to comply with the 7.6-meter accuracy requirement for all or a portion of its filed network facilities, that carrier may submit estimated data at least as accurate as Google Earth (*i.e.,* accurate to within 50 meters) and denote as estimates the relevant portion(s) of the network submitted. Where the carrier chooses to provide an estimate, it must certify in the HUBB portal, at the time of filing, that it does not possess data meeting the 7.6-meter requirement. Carriers must update any such estimated data no later than their filing due March 1, 2019, with data meeting the 7.6-meter requirement. Similarly, any new data submitted starting in March 1, 2019 (*i.e.,* for network facilities deployed in 2018) and in subsequent filing years must meet the 7.6-meter accuracy requirement. If a carrier currently has internal digital data in its possession for facilities deployed in 2017 or earlier that meet the accuracy requirement, it must file that data by July 1, 2018.

16. The Bureaus reject ATA's contention that information at the 7.6-meter level of accuracy is not necessary for the purposes of the map collection. The Bureaus' review of revised performance plans in 2020 alongside maps accurate to 7.6 meters provides an important backstop to ensure carriers maximize their commitments and service levels to Alaskans. The 7.6-meter standard is critical for obtaining a complete picture of facilities' locations in relation to other existing data. It is a commonly-used mapping standard for Commission high-cost data, is necessary for the Bureaus to maintain compatibility with census boundary and road data for the census-block based Alaska Plan, and will allow the Bureau to fully identify duplicative facilities.

17. Even in the absence of the relief provided here, the Bureaus reject ATA's argument that the burden of the 7.6-meter standard outweighs the benefit because ATA has not adequately demonstrated the scope of its burden to collect such information. ATA's evidence that the 7.6-meter level of accuracy is too burdensome largely relies on two carrier-employee declarations, stating that *not all* of their data is stored at the 7.6-meter accuracy level. ATA also notes that the FAA requires collection of some cell tower information at a 6.1 meter accuracy level. Moreover, all of Alaska has wide area augmentation system (WAAS) coverage 100 percent of the time with the exception of the southwestern most Aleutian Islands, which has this coverage at least 95 percent of the time, allowing use by non-expert personnel of inexpensive handheld devices accurate up to three meters.

18. For similar reasons, the Bureaus also reject ATA's counter-proposal that the Bureaus collect data at the 1000-meter accuracy level. ATA's proposed standard is far too inaccurate for the map data collection, as two filers filing the same node could show that node to be more than a mile apart from each other, which could significantly affect Bureaus' understanding of which census blocks have what facilities and what facilities are duplicates. Moreover, as noted, generally available desktop applications provide sufficient accuracy to meet the 50-meter estimate standard described above.

19. *Community Anchor Institutions.* The Bureaus grant the Petition in part to clarify the collection of CAI data. The Bureaus clarify that carriers need only submit those CAIs and associated links that fall within the statutory definition of a CAI. Furthermore, in the initial collection due July 1, 2018, carriers must submit all CAIs served by fiber or wireless connections. In subsequent years, carriers must submit any additional CAIs and associated links served by fiber or wireless connections that are being used or will be used to support their service in eligible areas. To the extent that CAI data does not fall under these limiting criteria, it is not reportable. The Bureaus otherwise deny the Petition with respect to ATA's request to limit the submission of CAI data.

20. First, the Bureaus grant the Petition in part to clarify that reportable CAIs are limited to those CAIs that fall within the definition of CAI in 47 U.S.C. 1305(b)(3)(A) that the Commission adopted in the *USF/ICC Transformation*

Order, 76 FR 73830, November 29, 2011. As such, this data collection is limited to the type of CAIs that carriers would report pursuant to 47 CFR 54.313(f)(1)(ii). Because rate-of-return carriers are already reporting the addresses of many of these CAIs on their FCC Form 481, carriers may face a reduced burden when submitting latitude and longitude of these same CAIs and the links connecting these institutions to other nodes in their networks for mapping purposes.

21. Second, consistent with the *Alaska Plan Order,* the Bureaus make clear that in the initial collection, carriers must submit data regarding any CAIs served by fiber or wireless connections. This limitation is consistent with the plain language of section 54.316(a)(6), which states that Alaska Plan participants ''shall submit fiber network maps or microwave network maps covering eligible areas'' for the purpose of tracking carriers' access to these facilities that would allow them to provide 10/1 Mbps for all Alaskans. In subsequent years, carriers must submit CAIs served by connections that ''are or will be used'' to support service in their eligible areas. This would include, at a minimum, those instances where the carrier has actual plans to use the CAI and links to extend the network. CAIs served by connections that ''are or will be used'' in this manner are in fact ''middle mile'' and/or ''backhaul'' within the meaning of the *Alaska Plan Order* and are therefore subject to collection. CAIs connected to high-capacity links may be used to expand service to underserved and unserved communities. Consequently, information regarding CAIs connected by such facilities is necessary for the Commission to understand whether adequate facilities exist to support additional last-mile connections and for the evaluation of carriers' performance—consistent with the purpose of the map collection.

22. The Bureaus deny ATA's Petition to the extent it seeks to exclude the reporting of CAIs which meet these criteria. ATA argues that all CAIs are ''last-mile'' facilities and therefore should not be part of the map collection except in limited circumstances. ATA's position is not consistent with the *Alaska Plan Order.* ATA argues that the Bureaus' reliance on aggregation points to justify reporting some nodes ''proves too much'' because a ''home's or business's Wi-Fi router is an initial aggregation point.'' But ATA's argument contravenes its own cited precedent, which separates the network based on points of traffic aggregation with similar network demand. In many instances, CAIs' position in carriers' network architecture is more akin to wireless towers aggregating community-wide traffic than a last-mile home or smartphone user. Indeed, ATA provides a conceptual network map in its Petition equating schools with wireless towers. This model and the ACAM are consistent with the understanding that both a CAI and a wireless tower can and do aggregate community-wide multi-user traffic. In contrast, a home or small business Wi-Fi router typically serves a single end-user location with only a handful of end-users, and it does not aggregate community-wide multi-user traffic.

23. In light of the foregoing discussion, the Bureaus reject ATA's counter-proposal to limit the collection of nodes to cell towers and CAIs that are outside of the exchange but connect to a central office in another exchange. In part because of the vast size of many exchanges in Alaska, knowing whether the central office in an exchange is fiber-fed does not provide a sufficiently granular picture of the potential middle-mile ''weak points'' or capabilities that could affect the ability of a carrier to meet its commitments or future commitments.

Federal Communications Commission.

Kris A. Monteith,

Chief, Wireline Competition Bureau.

[FR Doc. 2018–05881 Filed 3–22–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, March 20, 2018, the Corporation's Board of Directors determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Joseph M. Otting (Comptroller of the Currency), concurred in by Director Mick Mulvaney (Acting Director, Consumer Financial Protection Bureau), and Chairman Martin J. Gruenberg, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and resolution re: Final Rule to Implement Increase in Appraisal Threshold for Commercial Real Estate Transactions.

The Board further determined, by the same majority vote, that no notice earlier than March 20, 2018, of the change in the subject matter of the meeting was practicable.

Dated: March 20, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–05933 Filed 3–22–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Bank Holding Company Application and Notification Forms (OMB No. 7100–0121): The Application for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y–3), the Notification for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y–3N), and the Notification for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities (FR Y–4).

DATES: Comments must be submitted on or before May 22, 2018.

ADDRESSES: You may submit comments, identified by *FR Y–3, FR Y–3N, or FR Y–4,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: Application for Prior Approval to Become a Bank Holding Company, or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company; Notice for Prior Approval to Become a Bank Holding Company, or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company; and Notification for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities.

Agency form numbers: FR Y–3, FR Y–3N, and FR Y–4.

OMB control number: 7100–0121.

Frequency: Event-generated.

Reporters: Corporations seeking to become bank holding companies (BHCs) and existing BHCs.

Estimated average hours per response: FR Y–3, Section 3(a)(1): 50 hours; FR Y–3, Section 3(a)(3) and 3(a)(5): 60.5 hours; FR Y–3N, Sections 3(a)(1), 3(a)(3), and 3(a)(5): 5 hours; FR Y–4, complete notification: 12 hours; FR Y–4, expedited notification: 5 hours; and FR Y–4, post-consummation: 0.5 hours.

Estimated number of respondents: FR Y–3, Section 3(a)(1): 81; FR Y–3, Section 3(a)(3) and 3(a)(5): 136; FR Y–3N, Sections 3(a)(1), 3(a)(3), and 3(a)(5): 26; FR Y–4, complete notification: 30; FR Y–4, expedited notification: 11; and FR Y–4, post-consummation: 1.

Estimated annual burden hours: 12,824 hours.

General description of report: The Federal Reserve requires the submission of these filings for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Bank Holding Company Act of 1956 (the BHC Act). These filings collect information on proposals by BHCs involving formations, acquisitions, mergers, and nonbanking activities. The Federal Reserve uses this information to evaluate each individual transaction with respect to financial and managerial factors, permissibility, competitive effects, net public benefits, financial stability, and the impact on the convenience and needs of affected communities.

The applicant or notificant also is required to publish a notice in a newspaper of general circulation in the community where the head office of the bank to be acquired is located. The notice must state the name and address of the applicant and its proposed subsidiary, and it must invite the public to submit written comments to the appropriate Federal Reserve Bank.

Proposed revisions: The Board proposes to revise the FR Y–3, FR Y–3N, and FR Y–4 forms and instructions in order to improve the clarity of the requests; reflect the impact of new laws, regulations, capital requirements and accounting rules; delete items that are not typically useful for the analysis of the proposal; and add transparency for filers regarding the information that is required to consider a proposal. The revisions are intended to make initial filings better reflect and include the information that Board staff requires to evaluate a transaction and thereby reduce the need for subsequent information requests, which may delay the Board's consideration of a filing and create additional burden for filers.

Legal authorization and confidentiality: The FR Y–3 application and FR Y–3N notification are mandatory and submitted pursuant to section 3(a) of the BHC Act, which requires Board approval for formations, acquisitions, and mergers of bank holding companies (12 U.S.C. 1842(a)), and section 5(b) of the BHC Act, which authorizes the Board to issue regulations and orders to carry out these functions (12 U.S.C. 1844(b)). The FR Y–4 notification is mandatory and submitted pursuant to section 4(j) of the BHC Act, which requires BHCs to give advance written notice to the Board of any nonbanking activities (12 U.S.C. 1843(j)), and section 5(b) of the BHC Act (12 U.S.C. 1844(b), described above.

The information submitted in the FR Y–3, Y–3N, and Y–4 is considered to be public unless an institution requests confidential treatment for portions of the particular application or notification. Applicants may rely on any Freedom of Information Act exemption,

and such requests for confidentiality must contain detailed justifications corresponding to the claimed exemption. Requests for confidentiality will be evaluated on a case-by-case basis.

Effective date: July 31, 2018.

Board of Governors of the Federal Reserve System, March 20, 2018.

Ann E. Misback

Secretary of the Board.

[FR Doc. 2018–05956 Filed 3–22–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the International Applications and Prior Notifications Under Subpart B of Regulation K (FR K–2; OMB No. 7100–0284). The Board proposes to revise the FR K–2 form and instructions in order to: Improve the clarity of the requests; reflect new laws, regulations, capital requirements, and accounting rules; make minor changes for improved style, grammar, and clarity; and harmonize the general information, certification, and confidentiality sections with other similar forms. The revisions are intended to reduce the need for subsequent requests for additional information from respondents, which delay the Federal Reserve's consideration of a filing and create additional burden for filers.

DATES: Comments must be submitted on or before May 22, 2018.

ADDRESSES: You may submit comments, identified by *FR K–2,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paper Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the PRA to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: International Applications and Prior Notifications Under Subpart B of Regulation K.

Agency form number: FR K–2.

OMB control number: 7100–0284.

Frequency: On occasion.

Respondents: Foreign banks.

Estimated number of respondents: 14.

Estimated average hours per response: 36 hours.

Estimated annual burden hours: 504 hours.

General description of collection: Foreign banks are required to obtain the prior approval of the Federal Reserve to establish a branch, agency, or representative office in the United States; to acquire ownership or control of a commercial lending company in the United States; or to change the status of any existing office in the United States. The FR K–2 information collection contains five attachments for the application and notification requirements embodied in subpart B of Regulation K. The Federal Reserve uses the information to fulfill its statutory obligations under the International Banking Act.

The applicant also is required to publish a notice in a newspaper of general circulation in the community where the office is proposed to be located. The notice must state the name and address of the applicant/notificant

and the proposed office, and it must invite the public to submit written comments to the appropriate Reserve Bank.

Proposed revisions: The Board proposes to revise the FR K–2 form and instructions in order to: Improve the clarity of the requests; reflect the impact of new laws, regulations, capital requirements, and accounting rules; make minor changes for improved style, grammar and clarity; and harmonize the general information, certification, and confidentiality sections with other similar forms. The revisions are intended to make initial filings more reflective of the proposed transaction and thereby reduce the need for subsequent information requests, which delay the Federal Reserve's consideration of a filing and create additional burden for filers.

Legal authorization and confidentiality: This information collection is mandatory and collected pursuant to sections 7, 10, and 13 of the International Banking Act (12 U.S.C. 3105, 3107, and 3108). The information collected on the FR K–2 is normally subject to public disclosure under the Freedom of Information Act (FOIA). The applying or notifying organization may request that portions of the information contained in the FR K–2 be afforded confidential treatment. To do so, applicants must demonstrate how the information for which confidentiality is requested would fall within the scope of one or more of the exemptions contained in the FOIA. Any such request would be evaluated on a case-by-case basis.

Effective date: July 31, 2018.

Board of Governors of the Federal Reserve System, March 20, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–05958 Filed 3–22–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the International Applications and Prior Notifications under Subparts A and C of Regulation K (FR K–1; OMB No. 7100–0107). The Board proposes to revise the FR K–1 form and instructions primarily to make minor changes for improved style, grammar, and clarity, and to align the general information, certification, and confidentiality sections with other similar forms. No changes have been made to the information required in various attachments.

DATES: Comments must be submitted on or before May 22, 2018.

ADDRESSES: You may submit comments, identified by *FR K–1,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the PRA to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: International Applications and Prior Notifications under Subparts A and C of Regulation K.

Agency form number: FR K–1.

OMB control number: 7100–0107.

Frequency: On occasion.

Respondents: Member banks, Edge and agreement corporations, bank holding companies (BHCs), and foreign organizations.

Estimated number of respondents: Attachments A and B, 5; Attachments C through G, 15; Attachments H and I, 12; Attachment J, 2; Attachment K, 1.

Estimated average hours per response: Attachments A and B, 11.5 hours; Attachments C through G, 10 hours; Attachments H and I, 15.5 hours; Attachment J, 10 hours; Attachment K, 20 hours.

Estimated annual burden hours: 1,013 hours.

General description of collection: Subpart A of the Board's Regulation K governs the foreign investments and activities of member banks, Edge and agreement corporations, BHCs, and certain investments by foreign organizations. Subpart C of Regulation K governs investments in export trading companies. The FR K–1 information collection contains eleven attachments for the application and notification requirements embodied in Subparts A and C of Regulation K. The Board requires these applications for regulatory and supervisory purposes and to allow the Board to fulfill its statutory obligations under the Federal Reserve Act and the Bank Holding Company Act of 1956. The applications are event-generated and provide the Federal Reserve with information necessary to evaluate each of the proposed transactions.

Proposed revisions: The Board proposes to revise the FR K–1 form and instructions primarily to make minor changes for improved style, grammar, and clarity, and to align the general information, certification, and confidentiality sections with other similar forms.[1] In addition, a statement has been added indicating that the Board prefers that applicants/notificants electronically submit the application/notification and that a pre-filing option is available. No changes have been made to the information required in the various attachments to the FR K–1 form.

Legal authorization and confidentiality: This information collection is mandatory and collected pursuant to sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 601–604(a), 611–631), and sections 4(c)(13), 4(c)(14), and 5(c) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13), 1843(c)(14), 1844(c)). The information submitted in the FR K–1 is considered to be public unless an institution requests confidential treatment for portions of the particular application or notification. Applicants may rely on any Freedom of Information Act (FOIA) exemption, but such requests for confidentiality must contain detailed justifications corresponding to the claimed FOIA exemption. Any requests for confidentiality will be evaluated on a case-by-case basis.

Effective date: July 31, 2018.

Board of Governors of the Federal Reserve System, March 20, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–05957 Filed 3–22–18; 8:45 am]

BILLING CODE 6210–01–P

[1] Bank Holding Company Application and Notification Forms (FR Y–3, FR Y–3N, and FR Y–4; OMB No. 7100–0121), the International Applications and Prior Notifications Under Subpart B of Regulation K (FR K–2; OMB No. 7100–0284), and the Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company (FR Y–3F; OMB No. 7100–0119).

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company (FR Y–3F; OMB No. 7100–0119). The Board proposes to revise the FR Y–3F form and instructions in order to improve the clarity of the require information; obtain additional information necessary to evaluate the statutory factors; reflect the impact of new laws, regulations, capital requirements, and accounting rules; and improve transparency regarding the information that is required to consider a proposal. The revisions are intended to reduce the need for subsequent requests for additional information from applicants, which may delay the Board's consideration of a filing and create additional burden for filers.

DATES: Comments must be submitted on or before May 22, 2018.

ADDRESSES: You may submit comments, identified by *FR Y–3F,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the PRA to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all

comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: Application for a Foreign Organization to Acquire a Bank Holding Company.

Agency form number: FR Y–3F.

OMB control number: 7100–0119.

Frequency: On occasion.

Respondents: Any company organized under the laws of a foreign country seeking to acquire a U.S. bank or bank holding company.

Estimated number of respondents: Initial application, 1; subsequent application, 5.

Estimated average hours per response: Initial application, 91 hours; subsequent application, 71 hours.

Estimated annual burden hours: 446 hours.

General description of collection: Under the Bank Holding Company Act (BHCA), submission of this application is required for any company organized under the laws of a foreign country seeking to acquire a U.S. bank or bank holding company. Applicants must provide financial and managerial information, discuss the competitive effects of the proposed transaction, and discuss how the proposed transaction would effect the convenience and needs of the community to be served. The Federal Reserve also uses the information to fulfill, in part, its supervisory responsibilities with respect to foreign banking organizations in the United States.

In addition to the application materials, an applicant also is required to publish a notice in a newspaper of general circulation in the community where the head office of the bank to be acquired is located. The notice must state the name and address of the applicant and its proposed subsidiary, and it must invite the public to submit written comments to the appropriate Federal Reserve Bank.

Proposed revisions: The Board proposes to revise the FR Y–3F form and instructions in order to improve the clarity of the required information; obtain additional information necessary to evaluate the statutory factors; reflect the impact of new laws, regulations, capital requirements and accounting rules; and increase transparency regarding the information that is required to consider a proposal. The revisions are intended to reduce the need for subsequent information requests, which delay the Board's consideration of a filing and create additional burden for filers.

Legal authorization and confidentiality: This information collection is mandatory and authorized by sections 3(a), 3(c), and 5(b) of the BHCA (12 U.S.C. 1842(a), (c) and 1844(b)). The information provided in the application is not confidential unless the applicant specifically requests confidentiality and the Board approves the request. Applicants may rely on any Freedom of Information Act (FOIA) exemption, but such requests for confidentiality must contain detailed justifications corresponding to the claimed FOIA exemption. Requests for confidentiality will be evaluated on a case-by-case basis.

Effective date: July 31, 2018.

Board of Governors of the Federal Reserve System, March 20, 2018.

Ann E. Misback

Secretary of the Board.

[FR Doc. 2018–05955 Filed 3–22–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0213]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Vital Statistics Report Forms to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 13, 2017 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202)

395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Vital Statistics Report Forms (OMB Control Number 0920–0213, expires 04/30/2018)—Revision—National Center for Health Statistics (NCHS, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The compilation of national vital statistics dates back to the beginning of the 20th century and has been conducted since 1960 by the Division of Vital Statistics of the National Center for Health Statistics, CDC. The collection of the data is authorized by 42 U.S.C. 242k. This submission requests approval to collect the monthly and annually summary statistics for three years.

The Monthly Vital Statistics Report forms provide counts of monthly occurrences of births, deaths, and infant deaths. Similar data have been published since 1937 and are the sole source of these data at the National level. The data are used by the Department of Health and Human Services and by other government, academic, and private research and commercial organizations in tracking changes in trends of vital events. Respondents for the Monthly Vital Statistics Reports Form are registration officials in each State and Territory, the District of Columbia, and New York City. This form is also designed to collect counts of monthly occurrences of births, deaths, and infant deaths immediately following the month of occurrence.

The Annual Vital Statistics Occurrence Report Form collects final annual counts of marriages and divorces by month for each State and Territory, the District of Columbia, and New York City as well as 33 counties in New Mexico. These final counts are usually available from State or county officials about eight months after the end of the data year. The data are widely used by government, academic, private research, and commercial organizations in tracking changes in trends of family formation and dissolution.

This submission contains no changes to the actual data collection forms. However, the respondent numbers for the monthly and annual forms have shifted from 91 and 58 respectively to 58 and 91, since the 33 New Mexico Counties only send marriage and divorce information that is now only captured in the annual report. Consequently, the total burden has been reduced from 175 hours to 139 hours.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State, Territory, and other officials	Monthly Vital Statistics Report	58	12	8/60
State, Territory, and New Mexico County Officials.	Annual Vital Statistics Occurrence Report	91	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–05912 Filed 3–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0914]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Workplace Violence Prevention Programs in NJ Healthcare Facilities (0920–0914, Expiration 3/31/2018) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 21, 2017 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Workplace Violence Prevention Programs in NJ Healthcare Facilities (0920–0914, Expiration 3/31/2018)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is requesting an extension to complete 20 nursing home interviews for 0920–0914.

Healthcare workers are nearly five times more likely to be victims of violence than workers in all industries combined.

While healthcare workers are not at particularly high risk for job-related homicide, nearly 60% of all nonfatal assaults occurring in private industry are experienced in healthcare. Six states have enacted laws to reduce violence against healthcare workers by requiring workplace violence prevention programs.

However, little is understood about how effective these laws are in reducing violence against healthcare workers.

The long-term goal of the proposed project is to reduce violence against healthcare workers. The objective of the proposed study is: (1) To examine nursing home compliance with the New Jersey Violence Prevention in Health Care Facilities Act, and (2) to evaluate the effectiveness of the regulations in this Act in reducing assault injuries to nursing home workers. Our central hypothesis is that nursing homes with high compliance with the regulations will have lower rates of employee violence-related injury. NIOSH received OMB approval (0920–0914) to evaluate the legislation at 50 hospitals and at 40 nursing homes, to conduct a nurse survey and to conduct a home healthcare aide survey. Data collection is complete for the hospitals, the nurse survey, and the home healthcare aide survey. We have completed 20 out of 40 nursing home interviews. We still have 20 nursing home interviews to complete.

CDC will conduct face-to-face interviews with the Chairs of the Violence Prevention Committees in 20 nursing homes (10 in New Jersey and 10 in Virginia) who are in charge of overseeing compliance efforts. The purpose of the interviews is to measure compliance to the state regulations: Violence prevention policies, reporting systems for violent events, violence prevention committee, written violence prevention plan, violence risk assessments, post incident response and violence prevention training. A contractor will conduct the interviews.

There are no costs to respondents other than their time. The total estimated burden hours are 40.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Nursing Home Administrators	Interview	20	1	1
Nursing Home Administrators	Abstraction	20	1	1

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–05913 Filed 3–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0931]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Healthy Homes and Lead Poisoning Surveillance System (HHLPSS) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on [November 8, 2017] to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Healthy Homes and Lead Poisoning Surveillance System (HHLPSS) (OMB Control Number 0920–0931, expires 05/31/2018)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The overarching goal of HHLPSS is to support healthy homes surveillance activities at the state and national levels. CDC seeks to request an OMB approval to extend the project for 18-months for up to 40 state and local Healthy Homes Childhood Lead Poisoning Prevention Programs (CLPPP) and the state-based Adult Blood Lead Epidemiology and Surveillance (ABLES) programs. The state programs will report information (*e.g.,* presence of lead paint, age of housing, occupation of adults and type of housing) to the CDC under a one-year cost extension of the FY14 Funding Opportunity Announcement (FOA No. CDC–RFA–14–1408) titled ''(PPHF) Childhood Lead Poisoning Prevention.'' The 18-month extension will allow CDC to collect data for the third year

supplement which represents the fourth and final year of awardee blood lead surveillance data under this program announcement.

Over the last three years, seven states have adopted the HHLPSS and 13 are in beta-testing. Since October 2014, CDC has funded up to 40 state and local blood lead surveillance programs. All of these programs or their subcontractors at the local level are submitting lead surveillance data for an additional year.

The objectives for this surveillance system remain two-fold. First, the HHLPSS allows CDC to systematically track how the state and local programs conduct case management and follow-up of residents with housing-related health outcomes. Second, the system allows for identification and collection of information on other housing-related risk factors. Childhood and adult lead poisoning is just one of many adverse health conditions that are related to common housing deficiencies. Multiple hazards in housing (*e.g.,* mold, vermin, radon and the lack of safety devices) continue to adversely affect the health of residents. HHLPSS offers a coordinated, comprehensive, and systematic public health approach to eliminate multiple housing-related health hazards.

HHLPSS enables flexibility to evaluate housing where the risk for lead poisoning is high, regardless of whether children less than 6 years of age currently reside there. Thus, HHLPSS supports CDC efforts for primary prevention of childhood and adult lead poisoning. Over the past several decades there has been a remarkable reduction in environmental sources of lead, improved protection from occupational lead exposure, and an overall decreasing trend in the prevalence of elevated blood lead levels (BLLs) in U.S. adults. As a result, the U.S. national BLL geometric mean among adults was 1.2 µg/dL during 2009–2010. Nonetheless, lead exposures continue to occur at unacceptable levels. Current research continues to find that BLLs previously considered harmless can have harmful effects in adults, such as decreased renal function and increased risk for hypertension and essential tremor at BLLs <10 µg/dL.

There is no cost to respondents other than their time. The total estimated time burden hours is 640 hours. There are no changes to the requested burden hours or the data collection.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State, Local, and Territorial Health Departments.	Healthy Homes and Lead Poisoning Surveillance System (HHLPSS) Variables.	40	4	4

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–05914 Filed 3–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–1050; Docket No. CDC–2018–0023]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invite the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995.

This notice invites comment on proposed information collection projects under a mechanism titled *Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery*. CDC currently collects agency service delivery data under the following Office of Management and Budget (OMB) Control numbers:

- 0920–0940
- 0920–0953
- 0920–0974
- 0920–1009
- 0920–1027
- 0920–1050
- 0920–1071

The information collection activities provide a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Federal government's commitment to improving service delivery.

DATES: CDC must receive written comments on or before May 22, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0023 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton RoadC NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the

collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control Number 0920–1050, expires 6/30/2019)—Revision—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The information collection activities provide a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Federal government's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

CDC will only submit a collection for approval under these generic clearances if they meet the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based) on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under CDC generic clearances provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. To streamline CDC's approvals for its service delivery and customer feedback information collection activities, the agency intends to consolidate seven separate generic information collection plans (OMB Control Numbers listed above in the Summary) into one plan. The revision of this one plan will result in an annual increases of 129,750 additional burden hours and 231,200 responses.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Average expected annual number of activities	Average number of respondents per activity	Annual responses	Frequency of response (per request)	Average burden per response (in hours)	Total burden (in hours)
Individuals and Households, Businesses and Organizations, State, Local or Tribal Government	50	6,000	300,000	1	30/60	150,000
Total						

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–05915 Filed 3–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–17SG]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Information on Law Enforcement Officers'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March 16, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Anthropometric Information on Law Enforcement Officers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act of 1970, Public Law 9–596 (Section 20) [a][1] authorizes NIOSH to conduct research to advance the health and safety of workers.

In 1975, the National Bureau of Standards (NBS) released its manually measured anthropometric data of law enforcement officers (LEOs). The data have largely become outdated due to demographic changes in the LEO workforce (*e.g.,* gender and race/ethnicity) that have occurred in the past 43 years. NIOSH has initiated a national study on LEO anthropometry, using both traditional and three-dimensional (3D) scanning technologies to advance the safety and health of approximately 817,000 U.S. LEOs. Collecting traditional anthropometry will ensure easy comparison of data between this and previous studies, while 3D scan information (body contours and spatial relations between body parts) will be used for advanced anthropometric analysis, computer simulation, and human body modeling. Study results will be used to enhance design and standards for LEO vehicle configuration and personal protective equipment (PPE), such as cabins, seats, body restraints, vehicle accesses, and body armors.

The improved vehicle configurations will help enhance safe operation (due to improved driver visibility and control operation) and increase post-crash survivability (due to enhanced seats and restraint system configurations). Body armor, helmet, gloves, and boots are important elements of an integrated LEO personal protective system, especially for handling violent acts. Poor equipment fit may compromise the protective capabilities of PPE and may result in LEOs not wearing the PPE because of discomfort.

By establishing an anthropometric database for LEOs, the designers and manufacturers of these types of equipment will be able to produce products that are more effective and reduce the problems associated with sizing and stocking these items. Data collection will occur in 4 U.S. geographic areas using traditional anthropometric techniques for whole body measurements, 3D scanning techniques for head, foot, and whole body measurements, and a 2D scanning technique for hand measurements. An anthropometer, a beam caliper (rearranged pieces of the anthropometer), tape measures, and an electronic scale will be used to collect the traditional anthropometry data in the study. A hand scanner, head scanner, foot scanner, and whole body scanner, housed in a mobile trailer, are used for 2D and 3D body shape measurements.

The study population will be current law enforcement officers employed by

police departments, sheriff's departments, or similar governmental organizations throughout the continental United States. One thousand five LEO volunteers will participate in the study over three years, with a study goal of obtaining complete anthropometric assessment of 1,000 LEOs. Information collection for each respondent is expected to take no longer than 63 minutes (total) to complete. Participation is voluntary and there are no costs to the respondents other than their time. The total estimated annualized burden hours are 353.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Law Enforcement Officers	Biographical Information	335	1	3/60
Law Enforcement Officers	Data Sheet	335	1	25/60
Law Enforcement Officers	Assessment of Challenges in Vehicle and with Body Armor.	335	1	5/60
Law Enforcement Officers	Two-dimensional Hand Scan and Three-dimensional Body Scans.	335	1	30/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–05911 Filed 3–22–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3349–FN]

Medicare and Medicaid Programs; Approval of the Community Health Accreditation Partner for Continued CMS Approval of Its Home Health Agency Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the Community Health Accreditation Partner (CHAP) for continued recognition as a national accrediting organization for home health agencies (HHAs) that wish to participate in the Medicare or Medicaid programs.

DATES: This notice is applicable March 31, 2018 through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: Lillian Williams (410) 786–8636, Monda Shaver, (410) 786–3410, or Patricia Chmielewski (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a home health agency (HHA) provided certain requirements are met. Sections 1861(m) and (o), 1891, and 1895 of the Social Security Act (the Act) establish distinct criteria for entities seeking designation as an HHA. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of agencies and other entities are at 42 CFR part 488. The regulations at 42 CFR parts 409 and 484 specify the conditions that an HHA must meet to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for home health care.

Generally, to enter into a provider agreement with the Medicare program, an HHA must first be certified by a state survey agency as complying with conditions or requirements set forth in part 484 of our regulations. Thereafter, the HHA is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements.

However, there is an alternative to surveys by state agencies. Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting organization's approved program may be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of their accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. Section 488.5(e)(2)(i) requires accrediting organizations to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS. The Community Health Accreditation Partner's (CHAP'S) term of approval as a recognized accreditation program for HHAs expires March 31, 2018.

II. Approval of Accreditation Organizations

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Proposed Notice

On October 20, 2017, we published a proposed notice in the **Federal Register** (82 FR 48817) announcing CHAP's request for continued approval of its Medicare HHA accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and § 488.5, we

conducted a review of CHAP's Medicare HHA application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

• An onsite administrative review of CHAP's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against HHAs; and (5) survey review and decision-making process for accreditation;

• A comparison of CHAP's HHA accreditation standards to our current Medicare HHA conditions for participation (CoPs);

• A documentation review of CHAP's survey processes to:

++ Determine the composition of the survey team, surveyor qualifications, and CHAP's ability to provide continuing surveyor training.

++ Compare CHAP's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited HHAs.

++ Evaluate CHAP's procedures for monitoring HHAs found to be out of compliance with CHAP program requirements. This pertains only to monitoring procedures when CHAP identifies non-compliance. If non-compliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c)➢

++ Assess CHAP's ability to report deficiencies to the surveyed HHAs and respond to the HHA's plan of correction in a timely manner.

++ Establish CHAP's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of CHAP's staff and other resources.

++ Confirm CHAP's ability to provide adequate funding for the completion of required surveys.

++ Confirm CHAP's policies for surveys being unannounced.

++ Obtain CHAP's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the October 20, 2017 proposed notice (82 FR 48817) also solicited public comments regarding whether CHAP's requirements met or exceeded the Medicare CoPs for HHAs. There were no comments submitted.

IV. Provisions of the Final Notice

A. Differences Between CHAP's Standards and Requirements for Accreditation and Medicare Conditions of Participation and Survey Requirements

We compared CHAP's accreditation requirements for HHAs and its survey process with the Medicare CoPs at 42 CFR part 484, and the survey and certification process requirements of 42 CFR parts 488 and 489. CHAP's standards crosswalk, which crosswalks CHAP standards to the corresponding Medicare requirements and regulations, was also examined to ensure that the appropriate CMS regulation would be included in citations as appropriate. Our review and evaluation of CHAP's HHA application, which were conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, CHAP has revised its survey processes so that its processes are comparable to CMS requirements:

• § 488.5(a)(4)(vii), to ensure plans of corrections (PoCs) address all non-compliant practices and include policy changes required to correct the deficient practice.

• § 488.5(a)(7) through (9), to ensure surveyors maintain current licensure, that new surveyors receive the minimum number of mentored surveys prior to surveying independently, and that all new surveyors receive a 90-day evaluation of performance.

• § 488.5(a)(12), to ensure the appropriate number of medical records are reviewed during complaint investigations.

• § 488.26(b), to ensure that survey documentation includes a detailed deficiency statement that clearly outlines the number of medical records reviewed, describes the manner and degree of non-compliance, and supports the appropriate level of deficiency citation.

B. Term of Approval

Based on the review and observations described in section III. of this final notice, we have determined that CHAP's requirements for HHAs meet or exceed our requirements. Therefore, we approve CHAP as a national accreditation organization for HHAs that request participation in the Medicare program, effective March 31, 2018 through March 31, 2024.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, record keeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

Dated: March 8, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–05891 Filed 3–22–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2397–FN]

RIN–0938–ZB29

Medicaid Program; Announcement of Medicaid Drug Rebate Program National Rebate Agreement

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces changes to the Medicaid National Drug Rebate Agreement (NDRA, or Agreement) for use by the Secretary of the Department of Health and Human Services (HHS) and manufacturers under the Medicaid Drug Rebate Program (MDRP). We are updating the NDRA to incorporate legislative and regulatory changes that have occurred since the Agreement was published in the February 21, 1991 **Federal Register** (56 FR 7049). We are also updating the NDRA to make editorial and structural revisions, such as references to the updated Office of Management and Budget (OMB)-approved data collection forms and electronic data reporting.

DATES:

Applicability Date: The updated National Medicaid Drug Rebate Agreement (NDRA) provided in the Addendum to this final notice will be applicable on March 23, 2018.

Compliance Date: Publication of CMS–2397–FN serves as written notice of good cause to terminate all existing rebate agreements as of the first day of the full calendar quarter which begins at least 6 months after the effective date of the updated NDRA (October 1, 2018). Manufacturers with an existing active

NDRA will have at least 2 full calendar quarters as of the effective date of this notice to sign and submit the updated NDRA. We will publish further guidance on this soon.

FOR FURTHER INFORMATION CONTACT: Terry Simananda, (410) 786–8144.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicaid Program, states may provide coverage of outpatient drugs as part of the medical assistance furnished to eligible individuals as an optional benefit as described in sections 1902(a)(10) and (a)(54) and 1905(a)(12) of the Social Security Act (the Act). Section 1903(a) of the Act provides for federal financial participation (FFP) in state expenditures for these drugs. In general, for payment to be made available under section 1903 of the Act for most drugs, manufacturers must enter into, and have in effect, a Medicaid National Drug Rebate Agreement (NDRA, or Agreement) with the Secretary of the Department of Health and Human Services (HHS) as set forth in section 1927(a) of the Act. Additionally, in order to meet the requirement for a rebate agreement in section 1927(a) of the Act, manufacturers must also meet the requirements of section 1927(a)(5) of the Act, which require a manufacturer to enter into an agreement that meets the requirements of section 340B of the Public Health Service Act, as well as section 1927(a)(6) of the Act, which requires a manufacturer to enter into a master agreement with the Secretary of Veterans Affairs in compliance with 38 U.S.C. 8126 (see section 1927(a)(1) of the Act).

Authorized under section 1927 of the Act, the Medicaid Drug Rebate Program (MDRP) is a program that includes CMS, state Medicaid Agencies, and participating drug manufacturers that helps to partially offset the federal and state costs of most outpatient prescriptions drugs dispensed to Medicaid beneficiaries. Currently there are more than 650 drug manufacturers who participate in the MDRP. The NDRA provides that manufacturers are responsible for notifying states of a new drug's coverage. Manufacturers are required to report all covered outpatient drugs under their labeler code(s) to the MDRP and may not be selective in reporting their national drug codes (NDCs) to the program. Manufacturers are then responsible for paying a rebate on those drugs that were dispensed and/or paid for, as applicable, under the state plan. These rebates are paid by manufacturers on a quarterly basis to states and are shared between the states and the federal government to partially offset the overall cost of prescription drugs under the Medicaid Program.

Similarly, manufacturers that wish to terminate an NDRA that have active covered outpatient drugs must request termination for all associated labeler codes, and provide a reason for the request (for example, all covered outpatient drugs under the labeler code are terminated), or if the request for termination is only for certain labeler codes, provide justification for such request. Additionally, as with the current policy, for purposes of ensuring beneficiary access to single source drugs and/or drugs that are not otherwise available in the MDRP, we may choose to grant an exception to issuing or reinstating an NDRA for certain labeler codes of a manufacturer prior to issuing an NDRA for all of the labeler codes under the manufacturer, or terminating certain labeler codes as mentioned above.

II. Summary of Proposed Provisions and Analysis of and Responses to Public Comments on the Proposed Notice

In the proposed notice, published in the November 9, 2016 **Federal Register** (81 FR 78816), we provided a draft agreement updating the NDRA to reflect the changes in the Covered Outpatient Drug final rule with comment period that was published in the February 1, 2016 **Federal Register** (81 FR 5170), as well as operational and other legislative changes that have occurred over the last 20 plus years since the NDRA was first issued in 1991. We indicated in the proposed notice that a sample of the finalized NDRA would be posted on the CMS website after we considered the public comments and published the final notice.

In the proposed notice, we included in the Addendum, a draft of the updated NDRA for use in the MDRP, upon which we requested public comment. In the proposed notice, we indicated that if adopted, a drug manufacturer that seeks Medicaid coverage for its drugs would need to enter into the NDRA with the Secretary agreeing to provide the applicable rebate on those drugs for which payment was made under the state plan. The NDRA is not a contract. Rather, it should be viewed as an opt-in agreement that memorializes the statute and regulations. Therefore, we noted our intention to use the updated NDRA as a standard agreement that will not be subject to further revisions based on negotiations with individual manufacturers. For a complete and full description of the draft agreement of the NDRA, see the ''Addendum—Draft Agreement: National Drug Rebate Agreement Between the Secretary of Health and Human Services (Hereinafter referred to as ''the Secretary'') and the Manufacturer'' published in the proposed notice in the November 9, 2016 **Federal Register** (81 FR 78818 through 78835).

In response to the publication of the November 9, 2016 proposed notice, we received 13 timely public comments, some of which are beyond the scope of our proposals in that notice and will not be summarized and included in our responses below. Revisions made to the NDRA in response specific comments are noted in the applicable response to comments. Additionally, edits have been made to provide further clarity to the NDRA. A summary of revisions and edits made to the NDRA are provided as a summary to each section below. The following are a summary of the relevant public comments that we received related to the proposed notice, and our responses to the public comments.

A. Section I. Definitions

1. General Comments

Comment: One commenter is concerned that it may be overly cumbersome to require the user of the Agreement to look up the referenced regulations to determine the definitions of the terminology used in the Agreement. The commenter suggested that CMS update the text of the definitions and reference existing statute and regulations, rather than just putting forward the latter. In particular, the commenter noted that its recommendation would be most usefully applied to the definitions of the following terms: ''average manufacturer price (AMP),'' ''best price,'' ''covered outpatient drug,'' ''monthly AMP,'' ''quarterly AMP,'' and ''rebate period.''

Response: We disagree with the commenter that the text of the definitions, and references to the relevant statutory and/or regulatory citations, be included in the definitions. We prefer to refer to statute and/or regulations, as well as agency guidance, as opposed to repeating such language in the NDRA, as we believe this decreases the chance of inaccurate or conflicting NDRA text. Additionally, although the updated NDRA cites definitions implemented most recently in the Covered Outpatient Drug final rule with comment period (Final Rule) published in the **Federal Register** on February 1, 2016 (81 FR 5170), and codified in 42 CFR part 447, subpart I, we believe that subsequent statutory and/or regulatory changes are

incorporated by section VIII.(a). of the Agreement, which provides that the Agreement is subject to any changes in the Medicaid statute or regulations that affect the rebate program.

Restore Depot Price and Single Award Contract Price Definitions

Comment: A few commenters recommended that CMS not delete the definitions of ''Depot Price'' and ''Single-Award Contract Price'' from the Agreement as these terms are used but not defined in the MDRP statute and regulations. Specifically, the commenters stated that the MDRP statute defines best price to exclude ''Depot Price'' and ''Single-Award Contract Price.'' These same terms are used in the regulatory definitions of best price and AMP, however they are not defined anywhere except in the current NDRA. Therefore, the commenters recommended that CMS maintain the current definition of ''Depot Price'' and ''Single-Award Contract Price'' in the NDRA.

Response: We agree with the commenter that the definitions of ''Depot Price'' and ''Single-Award Contract Price'' should be retained in the NDRA as they are used in determination of best price and AMP but are not defined anywhere except for the NDRA. In addition, since we are retaining the definition of ''Single-Award Contract Price'', we will also retain the definition of ''Single-Award Contract.'' These definitions are being retained without any revisions. The definitions read as follows:

- ''*Depot Price*'' means the price(s) available to any depot of the federal government, for purchase of drugs from the Manufacturer through the depot system of procurement.
- ''*Single-Award Contract*'' means a contract between the federal government and a Manufacturer resulting in a single supplier for a Covered Outpatient Drug within a class of drugs. The Federal Supply Schedule is not included in this definition as a single award contract.
- ''*Single-Award Contract Price*'' means a price established under a Single-Award Contract.

2. Marketed

Comment: One commenter recommended that CMS retain the original NDRA definition of ''marketed'' so that the base date AMP ties to a sales transaction from which pricing data can be captured. The commenter noted the phrase ''first available for sale'' could be interpreted in a number of ways, including the date the drug receives Food and Drug Administration (FDA) approval, or when finished goods are ready to ship. Furthermore, the commenter stated that a first sale transaction might not occur for some time after those dates.

Response: While the commenter used the phrase ''first available for sale'' in its comment, the definition of ''marketed'' in the proposed notice does not include the word ''first.'' Rather it states that marketed means that a covered outpatient drug is available for sale by the manufacturer in the states (81 FR 78818). We believe the use of the phrase ''available for sale'' in the definition of ''marketed'' is consistent with past operational guidance issued by us regarding manufacturer reporting of base date AMP (see Manufacturer Release #69, in the manufacturer frequently asked questions (FAQs) section where we provide information in the answer A3 concerning the correct reporting of Market Date.) Therefore, we are retaining and finalizing this definition as provided in the proposed notice. Program Releases are available on *www.Medicaid.gov*.

3. State Drug Utilization Data

Comment: A few commenters supported the proposed definition of State Drug Utilization Data because it described the utilization on which rebates are due, and explicitly specified that the state invoice data must exclude drugs purchased under the 340B program. However, the commenters recommended that CMS make the following changes:

- Add the phrase ''consistent with the Unit Type reported by the manufacturer, for the NDC'' to the definition to minimize the significant volume of Unit of Measure disputes generated by state submissions of claimed units in forms different from the types reported by the manufacturers.
- Delete the phrase ''state utilization data is supplied on the CMS–R–144 form (that is, the state rebate invoice)'' because the format and data provided by the states on CMS–R–144 are not sufficient for accurate and timely validation of state claimed units submitted for rebate payments.
- Clarify that such data must exclude any Part D drug utilization by dual eligible individuals, in accordance with section 1935(d)(1) of the Act because some states are reimbursing Part D copayments for dual eligible individuals and are including these copayments in state utilization data.

Accordingly, the commenters suggested modifying the definition of ''State Drug Utilization Data'' to read, ''the total number of both fee-for-service (FFS) and managed care organization (MCO) units of each dosage form and strength, consistent with the Unit Type reported by the manufacturer for the NDC, of the manufacturer's covered outpatient drugs reimbursed during a rebate period under a Medicaid State Plan, other than units dispensed to Medicaid beneficiaries that were purchased by covered entities through the drug discount program under section 340B of the Public Health Service Act and other than units of Part D drugs dispensed to Medicare and Medicaid dual eligibles.''

Response: We disagree with the commenter that the proposed definition of ''State Drug Utilization Data'' should be changed to read, ''consistent with the Unit Type reported by the manufacturer for the NDC.'' Manufacturers do not always report the correct Unit Type for an NDC, and the state's drug utilization data reporting may serve to open the necessary dialogue to make manufacturers aware of the need to report the correct Unit Type, or to discuss the need for the state or the manufacturer to perform a conversion prior to rebate billing or payment.

We further disagree with the commenter's suggestion to delete reference to the CMS–R–144 because that is the Office of Management and Budget (OMB)-approved format and fields to be included on the state's quarterly rebate invoice. The CMS–R–144 is not considered claims-level data (CLD), the exchange of which is sometimes necessary for rebate payment validation purposes.

Finally, we disagree that adding a specific Medicare Part D exclusion is necessary since manufacturers have the right to dispute claims they believe are ineligible for rebate. If states and manufacturers cannot resolve disputes on their own, either party may ask the MDRP Dispute Resolution Program (DRP) team to assist by contacting the CMS Regional Office (RO) DRP Coordinator (a list of the RO DRP Coordinators can be found on *www.Medicaid.gov*).

Comment: One commenter requested that the definition of State Drug Utilization Data be strengthened to explicitly exclude units dispensed to Medicaid beneficiaries that were purchased by covered entities through the 340B program and incorporate specifics into the definition including timeframe in which data must be provided, with cross references to later sections of the rebate agreement, and include the following data elements: Date of service (DOS), prescription number, and billed amount.

Response: We updated the language in the proposed NDRA to explicitly

exclude units dispensed to Medicaid beneficiaries that were purchased by covered entities through the drug discount program under section 340B of the Public Health Service Act (PHSA). We believe this reference is sufficient. As this is an agreement between the Secretary and the manufacturer, not the state, we do not believe it is necessary to include the statutory timeframe for states to transmit the CMS–R–144, or rebate invoice. However, section III.(a)., ''Secretary's Responsibilities'' does include reference to the 60-day timeframe for state reporting of utilization data. Additionally, DOS, prescription number, and billed amounts are not required to be reported on the CMS–R–144; however, manufacturers may request the minimum CLD required to validate the utilization data received from the state. As discussed in Manufacturer Release #95 and State Release #173, we continue to encourage the exchange of the minimum CLD in such situations. Program Releases are available on *www.Medicaid.gov.*

Comment: One commenter expressed concern that the exclusion of 340B-purchased drugs from the definition of State Drug Utilization Data may be misunderstood by 340B covered entities as absolving the covered entities of their responsibility to avoid duplicate discounts under the 340B program, and instead placing such responsibility exclusively on state Medicaid agencies. The commenter further recommended that when updating the definition of State Drug Utilization Data in the Agreement, CMS should express that the update in no way affects the covered entities obligation under the 340B program to avoid duplicate discounts. The commenter further noted that while the administration of the 340B program is primarily the responsibility of the Health Resources and Services Administration (HRSA), the commenter asserted that section 1927(a)(5)(C) of the Act indicates that CMS shares responsibility for providing guidance to 340B covered entities on how to avoid duplicate discounts. The commenter requested that CMS take additional steps to guide 340B covered entities by establishing, in the Medicaid managed care context, a uniform means for 340B claims to be identified, as well as establish specific procedures for states, Medicaid MCOs, and 340B covered entities to follow to ensure that 340B claims are excluded from the data submitted to manufacturers for request rebates.

Response: We disagree that we should discuss 340B covered entity requirements in the NDRA, because those requirements are appropriately communicated by HRSA, the agency that is responsible for administration and oversight of the 340B program. We continue to work with HRSA, manufacturers, states, data vendors, PBMs, and other interested parties to try to identify and ensure exclusion of 340B FFS and MCO units from rebate billing.

Comment: One commenter stated that CMS should revise the definition of State Drug Utilization Data to specifically refer to the statutory prohibition on duplicate discounts in section 340B(a)(5)(A) of the PHSA. The commenter further recommended that CMS reference the duplicate discount prohibition in every instance throughout the revised NDRA in which it is implicated, emphasizing the need for states to request rebates only on FFS and MCO covered outpatient drugs that have not been purchased under the 340B program.

Response: While we appreciate the commenter's concern regarding duplicate discounts, we do not believe that the NDRA is the appropriate avenue to remind states of their obligation to exclude both FFS and MCO 340B claims from their manufacturer rebate requests, as the NDRA is an agreement that applies to manufacturers, not the states. Furthermore, while we added reference to the specific exclusion of 340B units from State Drug Utilization Data, we do not believe that it is necessary, as suggested by the commenter, to add a specific reference to section 340B(a)(5)(A) of the PHSA.

Comment: One commenter recommended that CMS incorporate additional specifics into the definition of State Drug Utilization Data to guide its operationalization including both the applicable timeframe in which the state's drug utilization data must be provided—states are often able to provide drug utilization data within a 7-calendar day timeframe—and the following list of *minimum* claims-level data elements that should be provided: Provider ID; Provider Name and Address; Date of Service; Paid Date; Billed Amount; Prescription Number; and National Drug Code (NDC) 11. Other data elements that the commenter recommended CMS should include in this minimum set are: Original claim quantity; conversion factor; invoice quantity; Healthcare Common Procedure Coding System (HCPCS) code; claim type; days' supply; allowed amount; third-party amount reimbursed; Dispensed-As-Written (DAW) indicator; and Medicaid plan name and identification number (BIN/Processor Control Number). The commenter further recommended that these data be made available in a standardized, downloadable format, and should be provided in addition to those indispensable data elements that are already consistently made available by states.

Response: As this is an agreement between the Secretary and the manufacturer, and not the state, we do not believe it is necessary nor appropriate to include the statutory timeframe for states to transmit the CMS–R–144, or rebate invoice; however, section III.(a)., ''Secretary's Responsibilities'' does include reference to the 60-day timeframe for state reporting of utilization data. We disagree with the commenter that there is a minimum set of CLD that should be expected along with State Drug Utilization Data, as different CLD fields are needed depending on variables such as provider setting, third-party co-pays, and the type of dispute or potential dispute. We continue to encourage states to share the appropriate minimum CLD for payment validation purposes on a case-by-case basis.

4. Unit

Comment: A few commenters disagreed with our proposed change to the definition of ''unit'' from ''drug unit in the lowest identifiable amount'' to ''drug unit in the lowest dispensable amount'' and the removal of the examples in the current definition (for example, tablet, capsule, milliliter, and gram). The commenters stated that the change to ''lowest dispensable amount'' does not define nor clearly address the two product unit data elements reported by manufacturers to CMS and is not consistent with current CMS guidance, including Drug Data Reporting for Medicaid (DDR) system Data Guides, where CMS provides that manufacturers use eight unit types: Injectable anti-hemophilic factor; capsule; each; gram; milliliter; suppository; tablet; and transdermal patch. The commenters suggest renaming ''unit'' to ''unit type'' and adding the specific eight reporting types for consistency with CMS manufacturer product reporting requirements. Specifically, one commenter suggested that ''Unit Type'' means ''one of the eight possible unit types by which the covered outpatient drug, form, and strength will be dispensed, as reported by the manufacturer consistent with the product reporting instructions from CMS (CMS 367–c). The eight possible unit types are injectable anti-hemophilic factor, capsule, each, gram, milliliter, suppository, tablet, and transdermal patch.''

The commenter indicated that if CMS does not accept the suggested changes, then CMS should explain the purpose of the change and whether it implies any change in the unit types reported by manufacturers because the ''unit type'' selected by the manufacturer is the basis for the pricing metrics data and unit rebate amount (URA) calculation.

Response: While we appreciate the comments, we have decided to retain the changes to the definition of ''Unit,'' set forth in the proposed notice as we believe this is more accurate and descriptive of what states receive on their claim than ''lowest identifiable amount.'' We are not including any of the eight specific unit types that are currently used, as those are subject to being updated by operational instruction, including DDR system Data Guides. Our intent is to update the NDRA as appropriate and ensure that we are able to keep pace with the changes in drug delivery processes and manufacturer and drug innovation. We seek to ensure that manufacturers that need a change in unit types based on future products are able to participate in the MDRP and to report their prices accurately in conjunction with necessary unit types, and that our beneficiaries have access to such drugs. ''Unit'' is meant to identify the lowest dispensable ''Units Per Package Size'' field of the ''Unit Type'' reported on the CMS–367. This is meant to better clarify the manufacturer's drug product reporting requirements.

5. Unit Rebate Amount (URA)

Comment: One commenter agreed with the proposed definition of ''Unit Rebate Amount'' as ''the computed amount to which the state drug utilization data is applied by states in invoicing the manufacturer for the rebate payment due,'' but recommended that CMS include additional text indicating CMS's longstanding position that manufacturers remain solely responsible for calculating the URA that is necessary to pay a rebate. Similarly, another commenter suggested that CMS clarify in the definition of ''Unit Rebate Amount'' that this is the amount computed ''by CMS'' to which the State Drug Utilization Data is applied by states and that CMS provide this URA information to states as a courtesy and drug manufacturers remain responsible for correctly calculating the URA for their covered outpatient drugs. The commenter stated this is important because manufacturers face Civil Monetary Penalties and potential False Claims Act liability for any late or misreported prices, and that there are adequate safeguards in place to ensure manufacturer compliance.

Response: We do not believe it is necessary to add language to the definition of ''Unit Rebate Amount'' to specify the manufacturer's responsibility to calculate a URA for each covered outpatient drug for which a state made a payment, or was dispensed, in a rebate period. However, we agree that the manufacturer's responsibility to calculate a URA should be strengthened, and this is carried out in section II, ''Manufacturer's Responsibilities.'' Therefore, in this updated NDRA, we are revising section II.(b)., by changing the last sentence of the proposed paragraph to state that ''[f]urthermore, except as provided under section V.(b). of this agreement, manufacturers are required to calculate a URA and make a rebate payment in accordance with each calculated URA to each State Medicaid Agency for the manufacturer's covered outpatient drug(s) by NDC paid for by the state during a rebate period.'' Additionally, we have added the following sentence to the end of the paragraph to further clarify our calculation of the URA: ''CMS may calculate a URA based on manufacturer-submitted product and pricing data and provide the URA to states in order to facilitate rebate billing. However, CMS's URA calculation does not relieve the manufacturer of its responsibility to calculate the URA.''

B. Section II. Manufacturer's Responsibilities

1. Point of Contact

Comment: Several commenters suggested allowing manufacturers the flexibility to identify more than one contact related to rebate invoice issues. Another commenter recommended that CMS clarify that the reference to a single point of contact refers only to a contact for rebate invoice issues. The commenters suggested that CMS develop more flexible language to allow manufacturers to identify more than one point of contact or permit a general mailbox for communications. Another commenter indicated that CMS should consider establishing both primary and secondary points of contact to ensure consistency of communication between the state and manufacturers in the event the designated contact becomes unavailable. The commenters stated such flexibility would facilitate communication between states and manufacturers while allowing for differences in business models and accommodating the reality of turn-over and employee absences or non-availability.

Response: The CMS–367(d) allows the manufacturer to identify one main contact for each of the following issues: Legal, Invoice, and Technical, and the NDRA has been updated at section II.(a). to specify the three contacts required on the CMS–367(d). Therefore, section II.(a). will now specifically state that ''[t]he manufacturer shall identify an individual point of contact for the Legal, Invoice, and Technical contacts at a United States address to facilitate the necessary communications with states with respect to rebate invoice issues.''

The requirement of the three official manufacturer contacts is to ensure accountability and to facilitate communications between CMS, the states, and manufacturers regarding all aspects of the MDRP. Manufacturers and states often exchange additional contacts with each other; however, for purposes of the MDRP, only one official contact will be submitted for each of the manufacturer's roles. In an effort to ensure there are no delays regarding invoice processing and rebate payments, we allow a general email address to be listed for the invoice contact, but requires that a direct contact name and telephone number be submitted on the CMS–367(d) for the official contact. The official Legal and Technical Contacts are required to list their direct email address and telephone numbers. Although it is the manufacturer's responsibility to ensure that their official contacts on file with CMS are updated at all times, many manufacturers do not update the official contacts on file in a timely manner. It is especially important for manufacturers to notify CMS of Technical Contact changes since the CMS's MDRP staff includes the manufacturer's Technical Contact on all communications with the manufacturer to ensure that the manufacturer's Technical Contact is aware of what is being requested by others with respect to its data.

2. Manufacturer Price Reporting and Rebate Payments

Comment: A few commenters recommended that CMS clarify that a rebate payment under the NDRA is only due on covered outpatient drugs paid for by the state ''under a Medicaid State Plan or approved waiver program'' or ''under Medicaid'' since some states have multiple, non-Medicaid programs under which they pay for covered outpatient drugs.

Response: We agree with the commenter that rebates negotiated as part of a state-only pharmacy program are not subject to the rebate provisions. We believe that the introductory

language of section II., ''Manufacturer's Responsibilities,'' offers these assurances where it provides that ''[i]n order for the Secretary to authorize that a state receive payment for the manufacturer's drugs under Title XIX of the Act, 42 U.S.C. Section 1396 *et seq.,* the manufacturer agrees to the requirements as implemented by 42 CFR 447.510. . .'' Therefore, if a manufacturer receives a request for payment under this agreement that it does not believe is billed under federal Medicaid, we recommend the manufacturer contact the state for clarification.

3. Reporting Inner and Outer NDCs

Comment: A few commenters did not support the additional language that manufacturer drug product pricing reports must ''include all applicable NDCs identifying the drug product which may be dispensed to a beneficiary, including package NDCs (outer package NDCs and inner package NDCs).'' One commenter indicated that sales are based upon the outer NDC, therefore, CMS should remove the language indicating manufacturers have to report information on both inner and outer package NDCs. Another commenter disagreed with using the undefined and often misconstrued terms for describing product NDC–11s as ''outer package'' and ''inner package'' because reporting extraneous information increases the risk of potential error.

In particular, the commenter recommended that we delete the last sentence in section II.(c). which states, ''Reports to CMS should include all applicable NDCs identifying the drug product which may be dispensed to a beneficiary, including package NDCs (outer package NDCs and inner package NDCs)'' and replace it with the following, ''Manufacturer product data reporting to CMS should include all applicable NDCs identifying the drug product, as available for product sales in the states and as listed on the product label, which may be dispensed to a beneficiary.''

Response: We disagree with the comments summarized above in which commenters do not support the addition of the language in II.(c). regarding the inclusion of inner and outer NDCs for package NDCs be reported to us. We issued agency guidance clarifying the requirement for reporting of inner and outer NDCs in Manufacturer Release #106 and State Release #183. Manufacturer sales of NDCs do not determine whether the NDC is reported to us, or the NDC's status as a covered outpatient drug. As we indicated in the above releases, in accordance with section 1927(b)(3)(A) of the Act, manufacturers that have signed a rebate agreement are required to report certain pricing information for all covered outpatient drugs. As was stated in the aforementioned guidance, manufacturers must report all of their NDCs that meet the definition of a covered outpatient drug as described in statute at sections 1927(k)(2) through 1927(k)(4) of the Act, and regulation at § 447.502, to ensure compliance with the applicable reporting and payment requirements.

Also, in accordance with section 1927(b)(1)(A) of the Act, such manufacturers are required to make rebate payments for covered outpatient drugs dispensed after December 31, 1990, for which payment was made under the state plan for such a period. This includes drugs dispensed to Medicaid MCO enrollees. Additionally, per 1927(b)(2)(A) of the Act, states are required to report to manufacturers at the end of each rebate period, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug dispensed after December 31, 1990, for which payment was made or which was dispensed under the plan, including information reported by each Medicaid managed care organization. Therefore, if a state has reimbursed a provider for FFS claims for an inner NDC, or if an inner NDC was dispensed for an MCO claim, the state is required to report or invoice the inner NDC to the manufacturer, and the manufacturer is subsequently required to pay rebates in accordance with section 1927(b)(1)(A) of the Act.

We further disagree that describing an NDC as an inner or outer NDC could be misconstrued, or that reporting information on both inner and outer NDCs is extraneous and could lead to potential errors. As noted above, we believe both NDCs may be evaluated as covered outpatient drugs, and if an NDC is a covered outpatient drug, then it should be reported as our guidance further clarifies. In other words, when states receive a claim from and pay a provider for dispensing an inner NDC, the state is required to invoice the manufacturer for that NDC and the manufacturer is subsequently required to pay rebates in accordance with 1927(b)(1)(A) of the Act. Program Releases are available on *www.Medicaid.gov.*

Comment: One commenter requested that CMS clarify the purpose of the following text, proposed for addition in section II.(c). to read, ''CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify in some cases that an NDC meets the definition of a covered outpatient drug . . . [.]'' The commenter stated that this statement may be unnecessary and could lead to confusion if not omitted from the updated NDRA revision. In the absence of such a clarification, the commenter recommended CMS delete this clause.

Also with regard to section II.(c)., the commenter requested that CMS clarify whether the ''reports'' referenced in the text—that is, ''[r]eports to CMS should include all applicable NDCs identifying the drug product . . .''—are meant to be distinct from reports adding product information into the DDR system. The commenter noted this clarification is necessary given that, currently, products must be listed with the FDA before being added to the DDR system.

Response: We have decided to remove the phrase ''in some cases'' from the sentence regarding use of FDA information so that the provision now reads, ''CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify that an NDC meets the definition of a covered outpatient drug . . . [.]'' We believe that the use of the phrase ''in some cases'' is neither necessary nor consistent with the discussion surrounding covered outpatient drugs in the final rule (81 FR 5184). We believe that when the entire sentence is considered (that is, ''CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify that an NDC meets the definition of a covered outpatient drug, therefore, manufacturers should ensure that their NDCs are electronically listed with FDA.''), it is clear to manufacturers how we use drug information listed with FDA, and why it is in a manufacturer's best interests to ensure that their NDCs are electronically listed with FDA. Manufacturers should ensure that their NDCs are electronically listed with FDA for us to have access to information to be able to verify that an NDC meets the definition of a covered outpatient drug.

As for the commenter's request for clarification on the ''reports to CMS'' reference, this text is meant to instruct manufacturers to report all NDCs to CMS that may be dispensed to a beneficiary. This includes, but is not limited to NDCs on inner components within a larger container, if that NDC on the inner component represents a drug that meets the definition of a covered outpatient drug. NDCs must be listed with FDA in order for a manufacturer to be able to certify the product data in DDR. Manufacturers may contact

mdroperations@cms.hhs.gov if they encounter difficulty with this requirement.

4. Quarterly Pricing Adjustment Reporting

Comment: Several commenters stated that the proposed language in section II.(d). could be read to require that manufacturers restate their AMP, best price, customary prompt pay discount data, and nominal price data within 30 days of the end of each quarter in which any adjustment can be made in the last-reported figures. The commenters recommended that CMS not finalize this provision because a requirement to make restatements each quarter whenever an adjustment can be made conflicts with the current regulations at 42 CFR 447.510(b) which provide that ''a manufacturer must report to CMS any revision to AMP, best price, customary prompt discounts, or nominal prices for a period not to exceed 12 quarters from the quarter in which the data were due. Any revision request that exceeds 12 quarters will not be considered . . . A manufacturer must report revised AMP within the 12-quarter time period, except when the revision would be solely as a result of data pertaining to lagged price concessions.''

The commenters noted that the regulation does not require that restatements be filed more than once within that 3-year window—only that the information must be restated by the end of the window. The commenters stated that our proposed language could conflict with the regulations and eliminate the flexibility the regulations provide to manufacturers regarding the timing of restatements, as it suggests that manufacturers would be required to make restatements more frequently than required by the regulations. To ensure that the Agreement aligns with the regulations, the commenters recommended that CMS not finalize this proposed change.

Response: We agree with the commenters that this phrase as originally worded could be misinterpreted. Therefore, we are revising the last sentence of section II.(d). to state that ''adjustments to all prior quarterly pricing data must be reported for a period not to exceed 12 quarters from when the pricing data were originally due as required under § 447.510(b).''

5. Increases and Decreases of Rebate Payment Amounts

Comment: Several commenters disagreed with our proposal to add the following sentence to section II.(f).: ''To the extent that changes in product, pricing, or related data cause increases to previously submitted total rebate amounts, the manufacturer will be responsible for timely payment of those increases in the same 30-day time frame as the current rebate invoice.'' The commenters stated that rebate payments must be adjusted when information changes causing either increases or decreases in previously submitted total rebate amounts and the Agreement must address both scenarios to be consistent with existing standards and that manufacturers continue to be entitled to recoup rebate overpayments as well.

Response: The purpose of this addition to section II.(f). is to state the manufacturers obligations when pricing or product data changes submitted by the manufacturer cause an increase in the amount owed to the state from previously paid rebate amounts. Manufacturer Release #58 provided guidance clarifying that interest applies when manufacturers fail to pay increases due to Prior Period Adjustments (PPAs) timely, and this is reflected in the proposed and updated NDRA. Program Releases are available on *www.Medicaid.gov.*

When PPAs cause a decrease to the amount of rebates previously paid by manufacturers, states will issue a credit upon agreement with the manufacturers about where the manufacturer would like the credit applied. To facilitate timely credits being applied by states, we encourage manufacturers to communicate which NDC line item(s) the credit(s) should be applied to with states. In response to public comment, and consistent with existing guidance, we have revised the updated NDRA at section II.(f). to add: ''To the extent that changes in product, pricing, or related data cause decreases to previously submitted total rebate amounts, the manufacturer should communicate with the states regarding where to apply the line-item (NDC-level) credit.'' to the end of the paragraph. Furthermore, we continue to encourage manufacturers and states to work together to ensure that appropriate payments are made, and credits applied, timely.

Comment: One commenter requested that CMS explain what changes cause decreases to previously submitted total rebate amounts.

Response: As previously stated, when PPAs cause a decrease to the amount of rebates previously paid by manufacturers, states will issue a credit upon agreement with the manufacturers about where the manufacturer would like the credit applied. We continue to encourage manufacturers and states to work together to ensure that appropriate payments are made, and credits applied, timely.

Comment: A few commenters urged CMS to clarify that the 30-day rebate does not conflict with the existing guidance provided under the Medicaid Rebate Data Guide for Labelers (April 2016), which provides that timely rebate payments must be made within 37 calendar days from the date a state receives the adjustment from CMS on the current quarterly URA data file. CMS should clarify that the existing policy permitting manufacturers to make rebate payments within 37 calendar days from the rebate invoice postmark date remain intact. Any confusion to the timeline for rebate payment could have a significant, negative operational impact on manufacturers and create additional administrative burden for manufactures, states, and CMS.

The commenters further noted that CMS recently reminded manufacturers of this ''38th day rule'' in a March 10, 2014 Program Notice, which stated that: ''[f]or purposes of calculating interest on late rebate payments, previously issued guidance (for example, Manufacturer Release #7 and State Release #29) has noted that manufacturers have 37 calendar days (as evidenced by the postmark by the U.S. Postal Service on the envelope) to pay rebates before interest begins to accrue.''

The commenters recommended that the updated NDRA include a new subsection (g) to follow the revised subsection (f) in which the 30-day payment requirement is stated (all other subsections re-lettered accordingly) to read, ''(g) For purposes of calculating interest on late rebate payments, manufacturers have 37 calendar days to pay rebates before interest begins to accrue. Based upon the state's invoice transmission method, manufacturers should use the state's email notification date, or the postmark by the U.S. Postal Service on the envelope.''

Response: While we appreciate the comment, we do not believe that the NDRA is the appropriate vehicle to relay such operational guidance. However, we are clarifying that the statutory requirements have not changed, nor has the language from the current rebate agreement, with respect to the rebate payment being made by the manufacturer in the proposed NDRA. The operational guidance relating to interest application after the 37th day from the postmark date of the invoice can be found in various Program Releases, including State Releases #29, and #166, as well as Manufacturer Release #7. Program Releases are available on *www.Medicaid.gov.*

Comment: One commenter requested revisions to section II.(f). to identify the parties' respective responsibility in the event that changes in product, pricing, or related data cause decreases to previously submitted total rebate amounts, and any credits to the manufacturer that may occur as a result of such decreases. The commenter noted CMS should clearly establish a single process and timeline for resolving changes in data regardless of whether they result in decreases or increases in the submitted total rebate amounts.

Response: As stated in previous responses to comments on decreases in rebate liability necessitated by manufacturer changes to pricing and/or product data, manufacturers are responsible for informing states to which line-item credits are to be applied. State responsibility is not included in the NDRA as the agreement is between the manufacturer and the Secretary and is not the appropriate vehicle for such guidance.

6. Comply With Statute, Regulation, Agency Guidance and Rebate Agreement

Comment: Several commenters noted that CMS should not include ''agency guidance'' among the items listed in section II.(g). as such a provision would circumvent the Administrative Procedures Act (APA), exceed the Secretary's authority under the Medicaid statute, be inconsistent with fundamental principles of contract law, fundamentally unfair, and over broad. The commenters further noted that under the APA, subregulatory guidance does not have the force of law and is not binding. Furthermore, commenters have indicated that the Medicaid rebate statute does not authorize CMS to override the APA, which serves to ensure that binding law is issued through a careful, deliberative process with stakeholder input.

Response: We do not believe that including a reference to agency guidance in this provision implicates the APA. Agency guidance is a reference to the interpretive guidance published by the agency, interpreting the Medicaid Drug Rebate statute and implementing regulations. Including a reference to ''agency guidance'' in this provision in the Agreement is simply a term of the Agreement, and does not suggest that agency guidance carries the force of law, as statutes and regulations do so. Therefore, we have retained ''agency guidance'' in section II.(g). of the rebate agreement.

Comment: A few commenters did not agree with our deletion of the requirement that CMS provide ''actual prior notice to the manufacturer'' before the manufacturer has to meet any change in its compliance obligations. The commenters were concerned that the lack of notice only exacerbates the concern over the addition of ''agency guidance'' to this provision in section II.(g). of the NDRA and as a result, even when manufacturers regularly check on their compliance obligations, they may not succeed in complying with all changes to agency guidance obligated to do under the updated NDRA. The commenters requested that CMS finalize the NDRA with such a notice requirement restored.

Response: We disagree with the commenters that this language remains necessary in the NDRA, as the laws and recently implemented final regulations provide the legal framework for the program. Furthermore, as stated previously, agency guidance is a reference to the interpretive guidance published by the agency, interpreting the Medicaid Drug Rebate statute and implementing regulations. Including a reference to ''agency guidance'' in this provision in the Agreement is simply a term of the Agreement, and does not suggest that agency guidance carries the force of law, as statutes and regulations do.

C. Section III. Secretary's Responsibilities

1. States' Reporting of Drug Utilization Information

Comment: Several commenters were concerned that the language CMS proposed in section III.(a). appears to weaken states' reporting requirements, could impact the reporting of state drug utilization data and conflicts with the Medicaid statute. While commenters acknowledged that CMS are the party to the NDRA, not states, and therefore could not bind states via the NDRA, they asserted that CMS must maintain consistency between the NDRA and the statute, which is binding on the states. Therefore, the commenters noted that CMS should incorporate state obligations by reference or specifically quote section 1927(b)(2)(A) of the Act instead of adopting language that differs substantively from the statute.

The commenters further noted that CMS should use the term ''shall,'' since it is consistent with the statutory requirement, rather than the draft revised NDRA's more permissive ''employ best efforts'' language. The commenters believe the revised text ''employ best efforts'' is open for broad interpretation, and as such lends significant uncertainty to the exact CMS activities that will be undertaken to ensure state compliance with rebate invoice reporting requirements. The commenters noted that CMS should strengthen the language to reflect our responsibility to ensure state's compliance with the applicable statutory provisions. However, if CMS continue to use the language ''employ best efforts'' in the updated NDRA, the commenters urged CMS to issue draft guidance simultaneously to the finalization of the NDRA to provide manufacturers with a more concrete definition of how the Agency will comply with existing statutory obligations.

Response: We agree with the commenter and are updating section III. of the NDRA to reflect that state utilization data are due no later than 60 days from the end of the rebate period. While we appreciate the comments, we do not believe that the description in section III.(a). of the proposed NDRA of the Secretary's responsibilities in regards to states reporting requirements to manufacturers conflicts with the statute. Section 1927(b)(2)(A) of the Act provides the 60-day timeframe for the states reporting obligations under the MDRP to provide relevant information in a format established by the Secretary and section III.(a). reflects that requirement. The rebate invoice (CMS–R–144) or alternative information described is that established format. Furthermore, we believe that the updated section III.(a). does not weaken states' reporting requirements because states are not subject to the agreement. States that opt to cover drugs are subject to applicable statutory, regulatory and sub-regulatory guidance. While we updated the paragraph in the proposed NDRA to be more inclusive of details, we have not changed or noted a change in state process. Additionally, we disagree that retaining the language that the Secretary ''. . . will employ best efforts,'' which is similar to language in the current rebate agreement, is contradictory to the statute or that it will lead to confusion and be open for misinterpretation. The NDRA is an agreement between the Secretary and the manufacturer, and is not the appropriate vehicle to specifically address state reporting requirements.

Comment: One commenter urged CMS to revise the new language at section III.(a). to eliminate any perception that the timeliness requirements apply only to FFS rebate claims since the new language refers to information about Medicaid utilization of covered outpatient drugs that were ''paid for'' during the rebate period. The commenter noted that CMS distinguishes between manufacturer

rebate obligations which accrue for FFS units based on the date of payment to pharmacies and MCO units based on the date of dispensing to Medicaid enrollees. The commenter further noted that the statute refers back to the number of units ''dispensed . . . for which payment was made under the plan during the period, including such information reported by MCOs . . . .'' Accordingly, the commenter recommended that section III.(a). be revised to read, ''. . . that is, information about Medicaid utilization of covered outpatient drugs that were dispensed and for which payment was made under a Medicaid State plan or approved waiver during the rebate period.''

Response: We agree with the commenter that the language in section III.(a). could be misinterpreted to apply only to FFS rebate claims. Therefore, we are revising section III.(a). to state ''. . . information about Medicaid utilization of covered outpatient drugs that were dispensed and/or paid for, as applicable during the rebate period'' to clarify that timeliness requirements apply to both FFS and MCO rebate claims.

D. Section IV. Penalty Provisions

1. Civil Monetary Penalties (CMPs)

Comment: One commenter recommended that CMS keep the phrase ''in connection with a survey'' in the provision of the NDRA on Civil Monetary Penalties (CMPs) in section IV.(a). because the underlying statutory authority only authorizes the Secretary to impose CMPs on a manufacturer that refuses a request for information in connection with a survey about drug charges or prices. The commenter noted that the Medicaid rebate statute states at section 1927(b)(3)(B) of the Act that:

''The Secretary may impose a civil monetary penalty in an amount not to exceed $100,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information.''

The commenter believes that the language in the NDRA should accurately reflect this statutory authority.

Response: We agree that the language in the NDRA should accurately reflect the statutory language. Therefore, we are adding back in to this section the phrase ''in connection with a survey''. Section IV.(a). now reads as follows: ''The Secretary may impose a civil monetary penalty under section III.(b)., as set forth in 1927(b)(3)(B) of the Act and applicable regulations, on a wholesaler, manufacturer, or direct seller of a covered outpatient drug, if a wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request by the Secretary, or the Secretary's designee, for information about covered outpatient drug charges or prices in connection with a survey or knowingly provides false information, including in any of its quarterly reports to the Secretary. The provisions of section 1128A of the Act (other than section (a) (for amounts of penalties or additional assessments) and (b)) shall apply as set forth in section 1927(b)(3)(B) of the Act and applicable regulations.''

Comment: One commenter appreciated our reference to existing statute and regulations in updating the penalty provisions of the NDRA, but questioned the proposal to only cite relevant statute/regulation without reference or summary of the text to which the user is referred. In particular, the commenter noted that these revisions may prove overly cumbersome in section IV.(c). that describes the CMPs that may be imposed for failure to provide timely information on AMP, best price, or base date AMP, and if CMS included only a reference to the relevant statute, users would need to separately look up the different penalty amounts referenced in the NDRA text, rather than be able to reference them without requiring a document other than the NDRA itself. Thus, the commenter requested that CMS update the text of the provisions with specific dollar values and reference existing statute and regulations, rather than just putting forward the latter.

Response: We disagree that the statutory and/or regulatory text be restated in section IV.(c). of the NDRA, and that otherwise the provision is overly cumbersome. As stated previously in response to comments, our approach in the proposed and updated NDRA is to refer to statute and/or regulations, as well as agency guidance, as opposed to repeating such language in the NDRA, as we believe this decreases the chance of inaccurate or conflicting NDRA text. The general provisions of the NDRA incorporate such statutory requirements not explicitly referenced in the NDRA. We have added language in the general provisions to reflect this approach.

2. Remedies Available for Violations of the Agreement

Comment: One commenter recommended that CMS revise the language in section IV.(d). to be even-handed and provide the same protection to manufacturers. The commenter specifically recommended revising this sentence to add ''or manufacturers'' to read, ''[n]othing in this Agreement shall be construed to limit the remedies available to the United States, states, or manufacturers for a violation of this Agreement or any other provision of law.''

Response: Manufacturers are afforded protections under section V. of the NDRA, which addresses dispute resolution procedures in the event a manufacturer wishes to dispute state drug utilization data on the rebate invoice. Therefore, we are not adding the reference to ''or manufacturers'' as requested by the commenter.

E. Section V. Dispute Resolution Process

1. Timing of Dispute

Comment: One commenter requested greater clarification around the timing and process of dispute resolution.

Response: We agree with the commenter with respect to clarifying the timing of dispute resolution. Based on many years of experience in assisting with dispute resolution efforts when asked by manufacturers and states, we realize that 60 days is not enough time for a typical dispute to be resolved. Therefore, section V.(c). of the updated NDRA is changed from requiring a dispute to be resolved within 60 days before moving to the state hearing process, to being resolved ''within a reasonable time frame.'' Additionally, as noted in previous responses, we encourage interested parties to go to our DRP web page, *https://www.medicaid.gov/medicaid/prescription-drugs/medicaid-drug-rebate-program/dispute-resolution/index.html,* for more information about our suggestions and information regarding dispute resolution.

2. Audit of State Drug Utilization Data

Comment: A few commenters noted the importance of manufacturers' access to CLD and the need to ensure the accuracy of state-reported data as critical mechanisms to avoid disputes in the first place, and where they cannot be avoided, resolve them more efficiently and expeditiously for all program participants. The commenter noted that CMS requires that state invoices to manufacturers include certain information but permit states to furnish that data at an aggregate level in the rebate invoice. Commenters noted further that CMS also makes it clear in the Final Rule that ''states will need to have detailed, prescription-level information or other mutually-agreeable

data available for dispute resolution purposes, if requested by a manufacturer in accordance with the state provision of information requirements of section 1927(b)(2)(A) of the Act'' (81 FR 5272).

The commenters suggested that CMS specify in the NDRA that minimum CLD elements needed to facilitate dispute resolution include (in addition to the NDC, period covered, and whether the prescription is fee-for-service or managed care) elements such as the pharmacy ID (including pharmacy name and address), units, dispense date, 340B identifier, unit of measure, provider ID (NPI) and any third party payment. Commenters also recommended that CMS specify that states provide CLD in a standard format, and electronically or in a downloadable format on a quarterly basis.

Response: We disagree with the commenters' suggestions to revise the updated NDRA to include specific requirements related to the CLD that may be requested of states and used for payment validation. We also do not believe that it is appropriate to include such detail in the NDRA as it is an agreement between the Secretary and the manufacturer, and is not the appropriate vehicle to specifically address these issues. Manufacturers retain the right to request the minimum CLD required to validate the utilization data received from the state. We further disagree with the commenter that there is a minimum set of CLD that should be expected along with State Drug Utilization Data, as different CLD fields are needed depending on variables such as provider setting, third-party co-pays, and the type of dispute or potential dispute. Consistent with Manufacturer Release #95 and State Release #173, we continue to encourage states to share the appropriate minimum CLD for payment validation purposes on a case-by-case basis. Program Releases are available on *www.Medicaid.gov.*

Comment: One commenter suggested that CMS recognize the need for states to acknowledge disputes within a specified time period and to provide relevant CLD to manufacturers within a specified time frame and that CMS should revise our changes to section V.(d). so that it reads as follows: ''Nothing in this section shall preclude the right of the manufacturer to audit the state drug utilization data reported (or required to be reported) by the state. The Secretary encourages the manufacturer and the state to develop mutually beneficial audit procedures.'' Commenters further suggested that at a minimum, however, CMS shall require the state to make available to the manufacturer claim-level data necessary to review or audit the State drug utilization data.

Response: As the NDRA is an agreement between the Secretary and the manufacturer, we disagree that we should incorporate a state's obligation into the NDRA. However, as referenced in Manufacturer Release #95 and State Release #173, as well as the ''Medicaid Drug Rebate Data Guide for Labelers'' and ''Medicaid Drug Rebate Data Guide for States'' (available as a download in the DDR system), we encourage both manufacturers and states to share such information with others involved in rebate payment and disputes. Official disputes must be entered into by manufacturers via the Reconciliation of State Invoice (ROSI) (Form CMS–304) or Prior Quarter Adjustment Statement (PQAS) (Form CMS–304a), and operational instructions for the ROSI and PQAS are provided in these data guides. Program Releases are available on *www.Medicaid.gov.*

3. State Hearing Process

Comment: One commenter stated it is critical that CMS provide more transparency about the state hearing process that is supposed to be used to resolve disputes that cannot be resolved in good faith within 60 days. The commenter indicated that under current section V.(c). of the current Rebate Agreement, if disputes cannot be resolved after this 60-day period, CMS shall require the state to make available to the manufacturer the state hearing mechanism available under 42 CFR 447.253(e). However, the proposed rebate agreement deletes the reference to § 447.253(e) and instead refers to the state hearing mechanism ''available to providers for Medicaid payment disputes.'' The commenter indicated that this deletion may have been intended to be a substantive change, since § 447.253(e) concerns the appeal procedure for providers to receive administrative review of ''payment rates'' and would appreciate CMS clarifying whether the change it proposes is substantive and (if so) what effect it would have.

The commenter further stated it is difficult to determine what the process is that CMS are referencing with its proposed language and is not certain whether CMS confirmed that such a process exists in each state. The commenter further recommended that if CMS does not intend for the proposed language to constitute a substantive change, CMS should provide more clarity around the practical details regarding how the dispute process available under § 447.253(e) would work, such as how a manufacturer would begin the dispute process, what procedures would be used to facilitate dispute resolution, and where to look for guidance on the process. Even if the proposed changes to section V.(c). are meant to constitute a substantive change, the commenter indicated it would still appreciate receiving guidance about the process ''available to providers for Medicaid payment disputes.''

Response: The current NDRA references the incorrect paragraph for state hearings as § 447.253(c); the commenter is correct that § 447.253(e) is the correct provider hearing reference. The deletion of the reference to the CFR cite was not intended to be a substantive change. We have added the correct CFR cite (§ 447.253(e)) to section V.(c). in the updated NDRA. Furthermore, we have issued guidance for the state hearing process via State Release #181 and Manufacturer Release #105. In these releases, we reminded states and manufacturers that the state hearing process is an option available to both states and manufacturers when they have reached an impasse through the normal dispute resolution process, or when one of the parties is not being responsive to another's efforts to engage in dispute resolution. Given the variability in the states' hearing processes, we recommended that each state make manufacturers aware of the process to request such a hearing in that state. Program Releases are available on *www.Medicaid.gov.*

4. Retain Section V.(e). From Current NDRA

Comment: A few commenters questioned the intent of removing section V.(e). of the existing rebate agreement, which states, ''adjustments to Rebate Payments shall be made if information indicates that either Medicaid Utilization Information, AMP or Best Price were greater or less than the amount previously specified.'' One commenter questioned if it means disputed amounts are not subject to adjustment (either an increase or decrease). Another commenter recommended that CMS retain the current section (e) in the current section V and make adjustments to the language to allow for adjustments that constitute both increases and decreases in the rebate amount since § 447.510(b)(1) requires that ''a manufacturer must report to CMS any revision to AMP, best price, customary prompt pay discounts, or nominal prices for a period not to exceed 12 quarters from the quarter in which the data were due.'' Another commenter specifically also

recommended including section (e) from the current NDRA but also suggested that CMS revise the sentence to read, ''[t]o the extent that changes in product, pricing, or related data cause increases or decreases to previously submitted total rebate amounts, the manufacturer will make appropriate payment adjustments in the same timeframe as the current rebate invoice (that is, 38 days after the state mails the state utilization data).''

Response: We do not believe that any revisions are necessary, as we believe section V.(b). of the updated NDRA captures these concerns and addresses these issues. As stated earlier in response to comments, we updated language in section II.(f). regarding increases and decreases in rebate amount, and believe that this provides sufficient information on processing rebate increases and decreases.

5. General Request for DRP Guidance

Comment: One commenter recommended that CMS take this opportunity to issue additional guidance that can facilitate dispute resolution. Currently, this process can be costly for manufacturers and states, and can delay payment of rebates in cases where disputed utilization data turns out to be correct. The commenter further noted that the HHS Office of Inspector General (OIG) has recommended additional steps to prevent and resolve disputes and found that certain disputes occur frequently due to poor-quality data (disputes over drugs with complicated unit-of-measure conversions, physician-administered drugs, 340B purchased drugs, and terminated drugs). The commenter stated that CMS could accelerate dispute resolution by revising the NDRA to identify minimum steps that states could take to facilitate dispute resolution and to provide that manufacturers will not be responsible for interest payments during periods before these minimum steps are taken.

Response: While we appreciate the comments, we disagree that additional guidance on the dispute resolution process be set forth in the NDRA. Dispute resolution is an alternative to the state hearing mechanism, and is a process between the state and manufacturer. We have no formal role in dispute resolution, but continue to assist to the extent possible, when manufacturers and/or states request support in resolving a dispute. Therefore, we will continue in our role as facilitator when practical, and we encourage interested parties to review our DRP web page, *https://www.medicaid.gov/medicaid/prescription-drugs/medicaid-drug-rebate-program/dispute-resolution/index.html,* for more information about our suggestions regarding dispute resolution.

Comment: One commenter requested more information about our role in facilitating dispute resolution between states and manufacturers. More specifically, the commenter requested additional clarity around our voluntary dispute resolution program process for states and manufacturers such as how the (dispute) program works, how a manufacturer can facilitate use of the program, our role in the dispute process, and our point of contact for the program.

Response: As noted previously, this type of information is generally distributed through operational guidance. In this case, we release information about our role in dispute resolution, the process to request our facilitation of disputes, and our points of contact on our website at *https://www.medicaid.gov/medicaid/prescription-drugs/medicaid-drug-rebate-program/dispute-resolution/index.html.*

6. Retain Section VI. From Current NDRA

Comment: Several commenters stated CMS should not finalize the deletion of section VI.(a). of the current NDRA, which pertains to patient access to outpatient prescription drugs. The commenters stated this provision recognizes that the access requirements in the rebate statute are the reason that manufacturers sign the Medicaid rebate agreement, and CMS has a responsibility to take action if states do not fulfill their obligations under the rebate statute. One commenter suggested that rather than deleting this provision, it should be reinforced and further strengthened in the updated NDRA to conform to the drug access requirements of section 1927 of the Act. The commenter noted that CMS reaffirmed the states' statutory obligation to cover covered outpatient drugs for which the relevant manufacturer has a Medicaid drug rebate agreement in State Release #172 (*https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Prescription-Drugs/Downloads/Rx-Releases/State-Releases/state-rel-172.pdf*) in response to Hepatitis C virus (HCV) therapies being unreasonably restricted by the states. This commenter suggested CMS explicitly refer to the text of State Release #172 that states provide Medicaid beneficiaries with access to prescribed medicines as described under section 1927 of the Act. The commenter stated that CMS may choose to continue to include this text in the ''dispute resolution'' section of the NDRA, or include the text under section III, ''Secretary's Responsibilities[.]''

Response: As stated previously in response to comments, our approach in the proposed and updated NDRA is to refer to or cite statute and/or regulations, as well as agency guidance, as opposed to repeating such language expressly in the NDRA, as we believe this decreases the chance of inaccurate or conflicting NDRA text. We believe section VIII, the General Provisions section of the NDRA incorporates such statutory requirements not explicitly referenced in other sections of the NDRA. However, in order to ensure clarity on this point, we have updated paragraph (a) of Section VIII, General Provisions to add an introductory sentence that reads: ''This agreement is authorized by the applicable provisions in sections 1902, 1903, 1905, and 1927 of the Act, and the implementing regulations at 42 CFR part 447.'' Therefore, in updating the NDRA we do not believe that the current section VI is necessary. Moreover, the drug access requirements in section 1927 of the Act continue to be binding on states, regardless of the inclusion of the state requirement in the NDRA between the Secretary and manufacturers. As the commenter noted, when specific drug access issues arise, as most recently on the HCV drugs referenced in State Release #172, we release agency guidance reminding states of drug access requirements. We have published such guidance over the years, such as State Release #38, about coverage of a new multiple sclerosis drug. Also, we issued State Release #51, in response to proposed state legislation that would limit drug coverage for states seeking to leverage discounts from manufacturers, clarifying that such legislation would not supersede drug coverage requirements in section 1927 of the Act. We will continue, when circumstances arise, to remind states of their coverage requirements under the MDRP. Program Releases are available on *www.Medicaid.gov.*

F. Section VI. Confidentiality Provisions

Comment: One commenter agreed with our updated section VI.(b)., which states that, ''[t]he manufacturer will hold state drug utilization data confidential. If the manufacturer audits this information or receives further information on such data, that information shall also be held confidential. Except where otherwise specified in the Act or Agreement, the

manufacturer will observe confidentiality statutes, regulations, and other properly promulgated policy concerning such data.'' However, the commenter recommended that CMS amend the section to recognize the reality that manufacturers must often share drug utilization data with contractors for various business reasons by adding language to section VI.(b). to read, ''[t]his confidentiality provision does not prevent a manufacturer from sharing drug utilization data with a contractor or other agent that helps the manufacturer perform audits or otherwise assess drug utilization data, provided that the contractor or agent agrees to treat the drug utilization data confidentially.''

Another commenter requested that CMS clarify how the confidentiality provisions relate to a manufacturers' use of third parties for dispute resolution and outsourcing claims processing.

Response: We do not believe that the edits suggested by the commenter are necessary as section VIII.(g). of the updated NDRA provides for the incorporation of contractors in the terms ''State Medicaid Agency'' and ''Manufacturer.'' However, we are revising section VIII.(g). to provide further clarification on this matter. Therefore, section VIII.(g). is being revised to read as follows: ''[t]he terms ''State Medicaid Agency'' and ''Manufacturer'' incorporate any contractors which fulfill responsibilities pursuant to the agreement unless such contractors are specifically excluded in the rebate agreement or such exclusion is specifically agreed to by an appropriate CMS official.''

G. Section VII. Nonrenewal and Termination

1. Re-Entrance After Termination

Comment: One commenter is concerned that the language in section VII.(d). which states that the manufacturer must make ''good faith efforts to appeal or resolve matters pending with the OIG'' could be misinterpreted to include ''matters pending with the OIG'' that are unrelated to violations of a previous Medicaid rebate agreement. Therefore, the commenter suggested revising the sentence to say that a manufacturer may not enter into another rebate agreement until at least one rebate period from the effective date of termination, ''and provided that the manufacturer has addressed to the satisfaction of CMS any outstanding violations from any previous rebate agreements, including but not limited to payment of any outstanding rebates and good faith efforts to appeal or resolve any disputes pending with the OIG concerning violations of a previous rebate agreement.''

Response: We understand the commenter's concerns and have revised the language in section VII.(d). to create two sentences which now reads: If this rebate agreement is terminated, the manufacturer is prohibited from entering into another rebate agreement as set forth in section 1927(b)(4)(C) of the Act for at least one rebate period from the effective date of the termination. The manufacturer must also address to the satisfaction of CMS any outstanding violations from any previous rebate agreement(s), including, but not limited to, payment of any outstanding rebates and also make good faith efforts to appeal or resolve matters pending with the OIG relating to the MDRP or exclusion as referenced in subsection (c) of this section, unless the Secretary finds good cause for earlier reinstatement.

H. Section VIII. General Provisions

1. Transfer of Ownership

Comment: One commenter requested that CMS make it clear that the automatic assignment of rebate liability (as specified in section VIII.(c). applies only when there is a transfer of ownership of the manufacturer as a whole, and not a transfer of specific products or product lines.

Response: Section VIII.(c). of the General Provisions section only speaks to transfer of ownership of the manufacturer, and does not reference transfer of specific products or product lines. We do not believe any revisions to section VIII.(c). of the updated NDRA are necessary.

2. Due Date Falls on Weekend or Federal Holiday

Comment: One commenter sought clarification from CMS regarding what is meant by ''other item'' in the section that reads, ''In the event that a due date falls on a weekend or federal holiday, the report or other item will be due on the first business day following that weekend or federal holiday.''

Response: The reference to ''other item'' is intended to refer to anything due from the manufacturer to us per the rebate agreement.

3. Request for New Subsection: Rebate Payment Deadline

Comment: One commenter recommended that CMS include a new subsection under section VIII in the NDRA to clarify the number of days manufacturers have to pay late rebates before interest begins to accrue. The commenter stated that this subsection should incorporate the guidance CMS provided to manufacturers in Manufacturer Release #7 and #89, which states that, ''[i]nterest will begin accruing on disputed or unpaid amounts 38 calendar days from the date the state mails the state utilization data, as evidenced by the postmark by the United States Postal Service or other common mail carrier on the envelope (not a postage stamp).''

Response: As stated in response to previous comments, statute, regulation, and agency guidance, such as Program Releases, are incorporated by reference in section VIII, General Provisions. As stated previously, we have updated paragraph (a) of Section VIII, to add an introductory sentence that reads: ''This agreement is authorized by the applicable sections of 1902, 1903, 1905 and 1927 of the Act, and the implementing regulations at 42 CFR part 447.'' Therefore, we do not believe it is necessary to specifically incorporate the language suggested by the manufacturer in the updated NDRA.

I. Section IX. CMS–367 Forms of the Drug Rebate Agreement

Comment: One commenter stated that CMS should amend any forms referenced in or attached to the NDRA through the same process by which CMS is required to amend the NDRA itself (bilaterally). For example, CMS proposed that the NDRA would include as an attachment certain CMS forms (CMS–367a, CMS–367b, CMS–367c, and CMS–367d) that are used for reporting data required by the NDRA. Additionally, CMS incorporated by reference in section I.(t). of the proposed NDRA the CMS–R–144 form (state rebate invoice).

While the commenter recognized that CMS has changed these forms in the past through the Paperwork Reduction Act process, without officially amending the rebate agreement, the commenter recommended that CMS amend all forms associated with this NDRA in the same way that CMS amend the NDRA itself. The commenter noted that section VIII.(h). of the proposed NDRA states that ''except for the conditions specified in sections II.(g). and VIII.(a). (which concern changes to the rebate statute or implementing regulations), this agreement will not be altered except by an amendment in writing signed by both parties . . . ,'' which means that (apart from changes associated with statutory and regulatory changes) any changes made to the NDRA, including its attachments, must be in writing and signed by both parties.

The commenter recommended that CMS extend these same requirements to any forms that CMS choose to incorporate by reference, to ensure that the substance of the NDRA cannot be altered by changes in standard CMS forms that technically are not considered part of the NDRA itself.

Response: OMB-approved forms, when changed, are subject to a notice and comment period as required by the Paperwork Reduction Act. We have complied with these requirements and will continue to comply for future updates to these forms. Therefore, we believe it is appropriate to revise section VIII.(h). to include as part of the exclusions all applicable OMB-approved forms. We have revised VIII.(h). to state that ''[e]xcept for the conditions specified in II.(g). and VIII.(a)., as well as all applicable OMB-approved forms, this agreement will not be altered except by an amendment in writing signed by both parties. No person is authorized to alter or vary the terms unless the alteration appears by way of a written amendment, signed by duly appointed representatives of the Secretary and the manufacturer.''

J. Miscellaneous Comments

Comment: One commenter urged CMS to include in the updated NDRA the existing mechanism that permits manufacturers to notify CMS of state Medicaid program compliance concerns regarding drug coverage requirements or if there is a pattern or history of inaccuracy in Medicaid utilization reporting.

Response: We disagree with the commenter's suggestion that we memorialize in the NDRA the details of how a manufacturer may contact us regarding concerns with compliance with drug coverage requirements or patterns/historical inaccuracies in state drug utilization data reporting. We will continue to update any operational instructions on the options available or suggestions for manufacturers to communicate such issues to us.

Comment: Several commenters requested that CMS revise the NDRA to more specifically enumerate state requirements with regard to the MDRP.

Response: We disagree that state requirements be enumerated in the NDRA, as this is an agreement between the manufacturers and the Secretary and is not the appropriate vehicle to specifically address state requirements.

III. Provisions of the Final Notice

As stated previously, we are updating the NDRA to reflect the changes in the Covered Outpatient Drugs final rule with comment period that was published in the February 1, 2016 **Federal Register** (81 FR 5170), as well as operational and other legislative changes that have occurred over the last 20 plus years since the NDRA was first issued in 1991. A sample of the finalized NDRA will be posted on the *www.Medicaid.gov.* The publication of the final notice in the **Federal Register** constitutes written notice of good cause to terminate all old rebate agreements as of the first day of the full calendar quarter which begins at least 6 months after the effective date of the updated NDRA. As noted in the proposed notice, the updated NDRA will need to be signed by all participating manufacturers, as well as new manufacturers joining the program (81 FR 78817). Therefore, all currently participating manufacturers wishing to maintain their participation in the MDRP will need to work with CMS to sign and effectuate an updated NDRA for each labeler code by the compliance date specified in the **DATES** section of this public notice. For any current manufacturer that does not sign and effectuate an updated NDRA within the time frame specified above, the result would be termination of the existing NDRA. Per section 1927(b)(4)(B)(iii) of the Act, termination of a rebate agreement does not affect rebates due under that agreement before the effective date of its termination. We will be providing additional instructions and guidance pertaining to how to sign and effectuate the updated NDRA through subregulatory guidance.

Furthermore, prospective manufacturers that request a new NDRA, or reinstatement of a previously active NDRA once the updated NDRA is available, would be subject to the current process of data submission and verification prior to the execution of a NDRA.

Additionally, we are further clarifying that, in keeping with the requirements in the previous and updated NDRA and CMS's policy guidance in Manufacturer Releases #13 and #48, manufacturers that wish to participate in the MDRP are required to report all their covered outpatient drugs to CMS, regardless of labeler code. Therefore, in an effort to prevent selective reporting of NDCs, manufacturers must ensure that all associated labeler codes with covered outpatient drugs enter into a rebate agreement in order to comply with the terms of the NDRA. This requirement is found under section II, Manufacturer's Responsibilities, subsection (a) of the previous NDRA, and in section II, Manufacturer's Responsibilities, subsection (b) of the updated NDRA. When a participating manufacturer requests an agreement for a newly acquired labeler code that has covered outpatient drugs, that NDRA request will be subject to verification of their proposed covered outpatient drug list. Program releases are available at *www.Medicaid.gov.*

A copy of the updated NDRA is included in the Addendum of this notice. Below is a summary of the revisions and edits to the updated NDRA that have been made as a result of comments or to provide conforming or clarifying edits.

A. Definitions

- In response to a comment, we are retaining the definitions of ''Depot Price,'' ''Single-Award Contract,'' and ''Single-Award Contract Price,'' without any revisions to the definitions. As such all numbering is adjusted to account for the retention of these definitions.
- We are adding an opening quotation mark to the definition of ''Marketed'' as it was omitted from the draft NDRA.
- The definition of ''Rebate Period'' is revised to add ''section 1927(k)(8) of the Act as implemented by'' after the word ''in'' and before ''42 CFR 447.502.''
- The definition of ''State Drug Utilization Data'' is revised to replace the word ''reimbursed'' with ''dispensed and/or paid for, as applicable'' so that it now reads: ''. . . covered outpatient drugs dispensed and/or paid for, as applicable during a rebate period. . . .''
- The definition of ''State Drug Utilization Data'' is also revised to add ''(OMB control number: 0938–0582)'' after ''CMS–R–144'' in order to properly identify the form as being OMB approved.
- The definition of ''State Medicaid Agency'' is revised to add ''and 1927(k)(9) of the Act'' after ''sections 1902(a)(5)'' and before ''to administer'' so that it now reads ''. . . under sections 1902(a)(5) and 1927(k)(9) of the Act to administer . . .''.
- The definition of ''Unit'' is revised to add ''(OMB control number 0938–0578)'' after ''CMS–367c form'' in order to properly identify the form as being OMB approved.

B. Manufacturer Responsibilities

- Subsection (a)—Has been revised to add ''for the Legal, Invoice, and Technical contacts'' between the words ''contact'' and ''at'' so that it now reads: ''. . . point of contact for the Legal, Invoice, and Technical contacts at a United States address . . . .''
- Subsection (b)—Is revised to add ''for all covered outpatient drugs in all labeler codes of a manufacturer'' after ''is signed'' and before ''calculated'' so that it now reads ''. . . Beginning with

the quarter in which the National Drug Rebate Agreement (rebate agreement) is signed for all covered outpatient drugs of all labeler codes of a manufacturer, calculate, and report . . .''. It is also revised to add the words ''calculate a URA and'' after ''required to'' and before ''make'' so that it now reads ''. . . manufacturers are required to calculate a URA and make a rebate payment . . . ,'' and is revised to add the following sentences to the end of the subsection: ''CMS may calculate a URA based on manufacturer-submitted product and pricing data and provide the URA to states in order to facilitate rebate billing. However, CMS's URA calculation does not relieve the manufacturer of its responsibility to calculate the URA.''

• Subsection (c)—Has been revised to remove the phrase ''in some cases'' from the third sentence so that it now reads, ''CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify that an NDC meets the definition of a covered outpatient drug, therefore, manufacturers should ensure that their NDCs are electronically listed with FDA.''

• Subsection (d)—First, the first sentence is revised to add ''(OMB control number 0938–0578)'' after ''CMS–367a form'' in order to properly identify the form as being OMB approved. Second, the third sentence is revised to read, ''[t]he manufacturer agrees to provide such information not later than 30 days after the end of each rebate period beginning with the effective date quarter.'' Third, the fourth sentence is revised to read, ''[a]djustments to all prior quarterly pricing data must be reported for a period not to exceed 12 quarters from when the pricing data were originally due as required under 42 CFR 447.510(b).''

• Subsection (e)—First, the first sentence is revised to add ''(OMB control number 0938–0578)'' after ''CMS–367b form'' in order to properly identify the form as being OMB approved. Second, the second sentence is revised to read, ''[t]he manufacturer agrees to provide such information not later than 30 days after the end of the month of the effective date, and not later than 30 days after the end of each month thereafter.''

• Subsection (f)—First, in accordance with section 1927(b)(3)(A) of the Act, the first sentence is revised to replace the word ''within'' with ''not later than'' after ''payments'' and before ''30 days'' so that it now reads ''Except as provided under V.(b)., to make rebate payments not later than 30 days after receiving the state rebate invoice.'' Second, it is revised to add the following sentence to the end of the subsection: ''To the extent that changes in product, pricing, or related data cause decreases to previously submitted total rebate amounts, the manufacturer should communicate with the states regarding where to apply the line-item (NDC-level) credit.''

• Subsection (i)—Is revised to add ''(OMB control number 0938–0578)'' after ''CMS–367d form'' in order to properly identify the form as being OMB approved.

• Subsection (k)—The reference to ''42 CFR 447.534'' in the last sentence of the subsection is replaced with ''42 CFR 447.510'' as this is the valid regulatory reference.

C. Secretary Responsibilities

• Subsection (a)—In accordance with section 1927(b)(2)(A) of the Act, the first sentence is revised to replace the word ''within'' with ''not later than'' after ''manufacturer,'' and ''60 days'' and to add ''dispensed and/or'' before ''paid for,'' and to add the ''as applicable'' after ''paid for'' so that it now reads: ''The Secretary will employ best efforts to ensure the State Medicaid Agency shall report to the manufacturer, no later than 60 days of the last day of each rebate period, the rebate invoice (CMS–R–144) or the minimum utilization information as described in section II.(f). of this agreement, that is, information about Medicaid utilization of covered outpatient drugs that were dispensed and/or paid for, as applicable, during the rebate period.''.

D. Penalty Provisions

• Subsection (a)—Is revised to add ''in connection with a survey'' after ''prices'' and before ''or'' in the first sentence.

• Subsection (d)—Is revised to add ''government'' after ''United States.''

E. Dispute Resolutions

• Subsection (a)—Is revised to add the OMB Control number associated with CMS–304 and CMS–304(a) forms after the reference to each form. The paragraph now read: ''In the event a manufacturer discovers a potential discrepancy with state drug utilization data on the rebate invoice, which the manufacturer and state in good faith are unable to resolve prior to the payment due date, the manufacturer will submit a Reconciliation of State Invoice (ROSI) form, the CMS–304 (OMB control number: 0938–0676), to the state. If such a discrepancy is discovered for a prior rebate period's invoice, the manufacturer will submit a Prior Quarter Adjustment Statement (PQAS) form, CMS–304a (OMB control number: 0938–0676), to the state.''

• Subsection (c)—The phrase ''shall require'' is replaced with ''will employ best efforts to ensure,'' and the phrase ''within 60 days'' is replaced by ''within a reasonable time frame'' in both instances, and the reference to ''42 CFR 447.253(e)'' is added in parentheses to the end of the subsection so that it now reads: ''The state and the manufacturer will use their best efforts to resolve a dispute arising under (a) or (b) above within a reasonable time frame after the state's receipt of the manufacturer's ROSI/PQAS. In the event that the state and manufacturer are not able to resolve the dispute within a reasonable time frame, CMS will employ best efforts to ensure the state makes available to the manufacturer the same state hearing mechanism available to providers for Medicaid payment disputes (42 CFR 447.253(e)).''.

F. Confidentiality Provisions

This section is finalized as proposed.

G. Nonrenewal and Termination

• Subsection (a)—Is revised to add ''from the date specified in section II.(h).,'' between ''year'' and ''unless'' so that in now reads: ''. . . successive terms of one year from the date specified in section II.(h)., unless the manufacturer . . . .''

• Subsection (b)—The first paragraph is revised to add ''and section 1927(b)(4)(B)(ii) of the Act'' after ''this agreement'' and before ''the manufacturer'' so that it now reads: ''In accordance with section VII.(a). of this agreement and section 1927(b)(4) of the Act, the manufacturer may terminate the agreement for any reason . . .''. The second paragraph, is revised to add an ''s'' to the end of ''cause'' to make it plural in both instances.

• Subsection (d)—Is revised to add a period after the word ''termination'' and create a new sentence that begins ''The manufacturer must also address . . .''

• Subsection (d)—Is also revised to add ''also make'' before ''good faith efforts in this new second sentence.

• Subsection (d)—Is further revised to add ''per subsection (c) of this section'' between ''the OIG'' and ''unless'' so it now reads ''. . . resolve matters pending with the OIG per subsection (c) of this section, unless the Secretary finds . . .''.

H. General Provisions

• Subsection (a)—Is revised to add the following sentence to the beginning of the subsection: ''This agreement is authorized by the applicable provisions

of sections 1902, 1903, 1905, and 1927 of the Act, and the implementing regulations at 42 CFR part 447.''.

• Subsection (f)—Is changed to replace the word ''scheme'' with ''construct''.

• Subsection (g)—Is revised to add ''such contractors are'' between ''unless'' and ''specifically,'' to replace ''provided for'' with ''excluded,'' and to add ''such exclusion is'' between ''or'' and ''specifically'' so that it now reads: The terms ''State Medicaid Agency'' and ''Manufacturer'' incorporate any contractors which fulfill responsibilities pursuant to the agreement unless such contractors are specifically excluded in the rebate agreement or such exclusion is specifically agreed to by an appropriate CMS official.

• Subsection (h)—Is revised to add ''as well as applicable OMB-approved forms,'' between ''VIII.(a).,'' and ''this agreement'' and to remove ''except by an amendment in writing signed by both parties. No person is authorized to alter or vary the terms unless the alteration appears by way of a written amendment, signed by duly appointed representatives of the Secretary and the manufacturer.'' so that it now reads: ''(h) Except for the conditions specified in II.(g). and VIII.(a)., as well as applicable OMB-approved forms, this agreement will not be altered.''.

I. CMS–367

This section is finalized as proposed.

J. Signatures

This section is finalized as proposed.

IV. Collection of Information Requirements

As stated in section 4711(f) of the Omnibus Budget Reconciliation Act of 1990, Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

As discussed in sections I and II of this final notice, we have revised the NDRA to add references to the appropriate CMS forms, consisting of: CMS–R–144 (OMB control number: 0938–0582), CMS–367 (OMB control number 0938–0578), and CMS–304 (OMB control number: 0938–0676). While the forms are referenced within the NDRA, there are no new or revised collection of information requirements or burden resulting from the updated NDRA. The forms are simply being referenced for clarity.

Addendum—Updated Agreement:

National Drug Rebate Agreement Between the Secretary of Health and Human Services (Hereinafter Referred to as ''the Secretary'') and the Manufacturer

The Secretary, on behalf of the U.S. Department of Health and Human Services and all states which have a Medicaid State Plan approved under 42 U.S.C. 1396a, and the manufacturer, on its own behalf, for purposes of section 1927 of the Social Security Act (''the Act''), 42 U.S.C. 1396r–8, hereby agree to the following:

I. Definitions

The terms defined in this section will, for the purposes of this agreement, have the meanings specified in section 1927 of the Act and implementing Federal regulations, as interpreted and applied herein:

(a) ''*Average Manufacturer Price (AMP)*'' will have the meaning set forth in section 1927(k)(1) of the Act as implemented by 42 CFR 447.504.

(b) ''*Base Consumer Price Index-Urban (CPI–U)*'' is the CPI–U for September, 1990. For drugs approved by the Food and Drug Administration (FDA) after October 1, 1990, ''Base CPI–U'' means the CPI–U for the month before the month in which the drug was first marketed.

(c) ''*Base Date AMP*'' will have the meaning set forth in sections 1927(c)(2)(A)(ii)(II) and 1927(c)(2)(B) of the Act.

(d) ''*Best Price*'' will have the meaning set forth in section 1927(c)(1)(C) of the Act as implemented by 42 CFR 447.505.

(e) ''*Bundled Sale*'' will have the meaning set forth in 42 CFR 447.502.

(f) ''*Centers for Medicare & Medicaid Services (CMS)*'' means the agency of the U.S. Department of Health and Human Services having the delegated authority to operate the Medicaid Program.

(g) ''*Consumer Price Index-Urban (CPI–U)*'' will have the meaning set forth in 42 CFR 447.502.

(h) ''*Covered Outpatient Drug*'' will have the meaning set forth in sections 1927(k)(2), (k)(3) and (k)(4) of the Act as implemented by 42 CFR 447.502.

(i) ''*Depot Price*'' means the price(s) available to any depot of the federal government, for purchase of drugs from the Manufacturer through the depot system of procurement.

(j) ''*Innovator Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(ii) of the Act as implemented by 42 CFR 447.502.

(k) ''*Manufacturer*'' will have the meaning as set forth in section 1927(k)(5) of the Act as implemented by 42 CFR 447.502.

(l) ''*Marketed*'' means that a covered outpatient drug is available for sale by a manufacturer in the states.

(m) ''*Monthly AMP*'' will have the meaning as set forth in 42 CFR 447.510.

(n) ''*Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(i) of the Act as implemented by 42 CFR 447.502.

(o) ''*National Drug Code (NDC)*'' will have the meaning as set forth in 42 CFR 447.502.

(p) ''*Non-innovator Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(iii) of the Act as implemented by 42 CFR 447.502.

(q) ''*Quarterly AMP*'' will have the meaning as set forth in 42 CFR 447.504.

(r) ''*Rebate period*'' will have the meaning as set forth in section 1927(k)(8) of the Act as implemented by 42 CFR 447.502.

(s) ''*Secretary*'' means the Secretary of the U.S. Department of Health and Human Services, or any successor thereto, or any officer or employee of the U.S. Department of Health and Human Services or successor agency to whom the authority to implement this agreement has been delegated. In this agreement, references to CMS indicate such successor authority.

(t) ''*Single-Award Contract*'' means a contract between the federal government and a Manufacturer resulting in a single supplier for a Covered Outpatient Drug within a class of drugs. The Federal Supply Schedule is not included in this definition as a single award contract.

(u) ''*Single-Award Contract Price*'' means a price established under a Single-Award Contract.

(v) ''*Single Source Drug*'' will have the meaning set forth in section 1927(k)(7)(A)(iv) of the Act as implemented by 42 CFR 447.502.

(w) ''*State Drug Utilization Data*'' means the total number of both fee-for-service (FFS) and managed care organization (MCO) units of each dosage form and strength of the manufacturer's covered outpatient drugs dispensed and/or paid for, as applicable during a rebate period under a Medicaid State Plan, other than units dispensed to Medicaid beneficiaries that were purchased by covered entities through the drug discount program under section 340B of the Public Health Service Act; state utilization data is supplied on the CMS–R–144 form (OMB control number: 0938–0582) (that is, the state rebate invoice).

(x) ''*States*'' will have the meaning as set forth in 42 CFR 447.502.

(y) ''*State Medicaid Agency*'' means the agency designated by a state under sections 1902(a)(5) and 1927(k)(9) of the Act to administer or supervise the administration of the Medicaid program.

(z) ''*Unit*'' means drug unit in the lowest dispensable amount. The manufacturer will specify the unit information associated with each covered outpatient drug per the instructions provided in CMS–367c (OMB control number 0938–0578).

(aa) ''*Unit Rebate Amount (URA)*'' means the computed amount to which the state drug utilization data is applied by states in invoicing the manufacturer for the rebate payment due.

(bb) ''*United States*'' will have the meaning as set forth in 42 CFR 447.502.

(cc) ''*Wholesaler*'' will have the meaning as set forth in section 1927(k)(11) of the Act as implemented by 42 CFR 447.502.

II. Manufacturer's Responsibilities

In order for the Secretary to authorize that a state receive payment for the

manufacturer's drugs under Title XIX of the Act, 42 U.S.C. 1396 *et seq.,* the manufacturer agrees to the requirements as implemented by 42 CFR 447.510 and the following:

(a) The manufacturer shall identify an individual point of contact for the Legal, Invoice, and Technical contacts at a United States address to facilitate the necessary communications with states with respect to rebate invoice issues.

(b) Beginning with the quarter in which the National Drug Rebate Agreement (rebate agreement) is signed for all covered outpatient drugs of all labeler codes of a manufacturer, calculate, and report all required pricing data on every covered outpatient drug by NDC in accordance with section 1927 of the Act and as implemented by 42 CFR 447.510. Furthermore, except as provided under section V.(b). of this agreement, manufacturers are required to calculate a URA and make a rebate payment in accordance with each calculated URA to each State Medicaid Agency for the manufacturer's covered outpatient drug(s) by NDC paid for by the state during a rebate period. CMS may calculate a URA based on manufacturer-submitted product and pricing data and provide the URA to states in order to facilitate rebate billing. However, CMS's URA calculation does not relieve the manufacturer of its responsibility to calculate the URA.

(c) In accordance with the specifications pursuant to Office of Management and Budget (OMB)-approved CMS–367c form, report all covered outpatient drugs and corresponding drug product, pricing, and related data to the Secretary, upon entering into this agreement. This information is to be updated as necessary to include new NDCs and updates to existing NDCs. CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify that an NDC meets the definition of a covered outpatient drug, therefore, manufacturers should ensure that their NDCs are electronically listed with FDA. Reports to CMS should include all applicable NDCs identifying the drug product which may be dispensed to a beneficiary, including package NDCs (outer package NDCs and inner package NDCs).

(d) Beginning with the effective date quarter and in accordance with the specifications pursuant to OMB-approved CMS–367a form (OMB control number 0938–0578), report quarterly pricing data to the Secretary for all covered outpatient drugs in accordance with 42 CFR 447.510. This includes reporting for any package size which may be dispensed to the beneficiary. The manufacturer agrees to provide such information not later than 30 days after the end of each rebate period beginning with the effective date quarter. Adjustments to all prior quarterly pricing data must be reported for a period not to exceed 12 quarters from when the pricing data were originally due as required under 42 CFR 447.510(b).

(e) In accordance with the OMB-approved CMS–367b form (OMB control number 0938–0578), report information including monthly AMPs and monthly AMP units for all covered outpatient drugs in accordance with 42 CFR 447.510. The manufacturer agrees to provide such information not later than 30 days after the end of the month of the effective date, and not later than 30 days after the end of each month thereafter.

(f) Except as provided under V.(b)., to make rebate payments not later than 30 days after receiving the state rebate invoice. The manufacturer is responsible for timely payment of the rebate within 30 days so long as the state invoice contains, at a minimum, the number of units paid by NDC in accordance with 1927(b)(1) of the Act. To the extent that changes in product, pricing, or related data cause increases to previously-submitted total rebate amounts, the manufacturer will be responsible for timely payment of those increases in the same 30-day time frame as the current rebate invoice. To the extent that changes in product, pricing, or related data cause decreases to previously-submitted total rebate amounts, the manufacturer should communicate with the states regarding where to apply the line-item (NDC-level) credit.

(g) To comply with the conditions of 42 U.S.C. 1396r–8, changes thereto, implementing regulations, agency guidance and this Agreement.

(h) In accordance with 1927(a)(1) of the Act, rebate agreements between the Secretary and the manufacturer entered into before March 1, 1991 are retroactive to January 1, 1991. Rebate agreements entered into on or after March 1, 1991 shall have a mandatory effective date equal to the first day of the rebate period that begins more than 60 days after the date the agreement is entered into. Rebate agreements entered into on or after November 29, 1999 will also have an effective date equal to the date the rebate agreement is entered into that will permit optional state coverage of the manufacturer's NDCs as of that date.

(i) To obtain and maintain access to the system used by the Medicaid Drug Rebate program, use that system to report required data to CMS, and ensure that their contact information is kept updated as required in the OMB-approved CMS–367d form (OMB control number 0938–0578).

(j) To continue to make a rebate payment on all of its covered outpatient drugs for as long as an agreement with the Secretary is in force and state utilization data reports that payment was made for that drug, regardless of whether the manufacturer continues to market that drug. If there are no sales by the manufacturer during a rebate period, the AMP and best price reported in the prior rebate period should be used in calculating rebates.

(k) To keep records (written or electronic) of the data and any other material from which the calculations of AMP and best price were derived in accordance with 42 CFR 447.510, and make such records available to the Secretary upon request. In the absence of specific guidance in section 1927 of the Act, federal regulations and the terms of this agreement, the manufacturer may make reasonable assumptions in its calculations of AMP and best price, consistent with the purpose of section 1927 of the Act, federal regulations and the terms of this agreement. A record (written or electronic) explaining these assumptions must also be maintained by the manufacturer in accordance with the recordkeeping requirements in 42 CFR 447.510, and such records must be made available to the Secretary upon request.

(l) To notify CMS of any filing of bankruptcy, and to transmit such filing to CMS within seven days of the date of filing.

III. Secretary's Responsibilities

(a) The Secretary will employ best efforts to ensure the State Medicaid Agency shall report to the manufacturer, not later than 60 days after the last day of each rebate period, the rebate invoice (CMS–R–144) or the minimum utilization information as described in section II.(f). of this agreement, that is, information about Medicaid utilization of covered outpatient drugs that were dispensed and/or paid for, as applicable, during the rebate period. Additionally, the Secretary will expect any changes to prior quarterly state drug utilization data to be reported at the same time.

(b) The Secretary may survey those wholesalers and manufacturers that directly distribute their covered outpatient drugs to verify manufacturer prices and may impose civil monetary penalties as set forth in section 1927(b)(3)(B) of the Act and section IV of this agreement.

(c) The Secretary may audit manufacturer information reported under section 1927(b)(3)(A) of the Act.

IV. Penalty Provisions

(a) The Secretary may impose a civil monetary penalty under section III.(b). as set forth in 1927(b)(3)(B) of the Act and applicable regulations, on a wholesaler, manufacturer, or direct seller of a covered outpatient drug, if a wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request by the Secretary, or the Secretary's designee, for information about covered outpatient drug charges or prices in connection with a survey or knowingly provides false information, including in any of its quarterly reports to the Secretary. The provisions of section 1128A of the Act (other than subsection (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply as set forth in section 1927(b)(3)(B) of the Act and applicable regulations.

(b) The Secretary may impose a civil monetary penalty, for each item of false information as set forth in 1927(b)(3)(C)(ii) of the Act and applicable regulations.

(c) The Secretary may impose a civil monetary penalty for failure to provide timely information on AMP, best price or base date AMP. The amount of the penalty shall be determined as set forth in 1927(b)(3)(C)(i) of the Act and applicable regulations.

(d) Nothing in this Agreement shall be construed to limit the remedies available to the United States government or the states for a violation of this Agreement or any other provision of law.

V. Dispute Resolution

(a) In the event a manufacturer discovers a potential discrepancy with state drug utilization data on the rebate invoice, which the manufacturer and state in good faith are

unable to resolve prior to the payment due date, the manufacturer will submit a Reconciliation of State Invoice (ROSI) form, the CMS–304 (OMB control number: 0938–0676), to the state. If such a discrepancy is discovered for a prior rebate period's invoice, the manufacturer will submit a Prior Quarter Adjustment Statement (PQAS) form, CMS–304a (OMB control number: 0938–0676), to the state.

(b) If the manufacturer disputes in good faith any part of the state drug utilization data on the rebate invoice, the manufacturer shall pay the state for the rebate units not in dispute within the required due date in II.(f). Upon resolution of the dispute, the manufacturer will either pay the balance due, if any, plus interest as set forth in section 1903(d)(5) of the Act, or be issued a credit by the state by the due date of the next quarterly payment in II(f).

(c) The state and the manufacturer will use their best efforts to resolve a dispute arising under (a) or (b) above within a reasonable time frame after the state's receipt of the manufacturer's ROSI/PQAS. In the event that the state and manufacturer are not able to resolve the dispute within a reasonable time frame, CMS will employ best efforts to ensure the state makes available to the manufacturer the same state hearing mechanism available to providers for Medicaid payment disputes (42 CFR 447.253(e)).

(d) Nothing in this section shall preclude the right of the manufacturer to audit the state drug utilization data reported (or required to be reported) by the state. The Secretary encourages the manufacturer and the state to develop mutually beneficial audit procedures.

(e) The state hearing mechanism is not binding on the Secretary for purposes of the Secretary's authority to implement the civil money penalty provisions of the statute or this agreement.

VI. Confidentiality Provisions

(a) Pursuant to section 1927(b)(3)(D) of the Act and this agreement, information disclosed by the manufacturer in connection with this agreement is confidential and, notwithstanding other laws, will not be disclosed by the Secretary or State Medicaid Agency in a form which reveals the manufacturer, or prices charged by the manufacturer, except as authorized under section 1927(b)(3)(D).

(b) The manufacturer will hold state drug utilization data confidential. If the manufacturer audits this information or receives further information on such data, that information shall also be held confidential. Except where otherwise specified in the Act or agreement, the manufacturer will observe confidentiality statutes, regulations, and other properly promulgated policy concerning such data.

(c) Notwithstanding the nonrenewal or termination of this agreement for any reason, these confidentiality provisions will remain in full force and effect.

VII. Nonrenewal and Termination

(a) Unless otherwise terminated by either party pursuant to the terms of this agreement, the agreement shall be effective beginning on the date specified in section II.(h). of this agreement and shall be automatically renewed for additional successive terms of one year from the date specified in section II.(h)., unless the manufacturer gives written notice of intent not to renew the agreement at least 90 days before the end of the current period.

(b) In accordance with section VII.(a). of this agreement and section 1927(b)(4)(B)(ii) of the Act, the manufacturer may terminate the agreement for any reason, and such termination shall become effective the later of the first day of the first rebate period beginning 60 days after the manufacturer gives written notice requesting termination, or CMS initiates termination via written notice to the manufacturer.

The Secretary may terminate the agreement for failure of a manufacturer to make rebate payments to the state(s), failure to report required data, for other violations of this agreement, or other good causes upon 60 days prior written notice to the manufacturer of the existence of such violation or other good causes. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

(c) Manufacturers on the Office of Inspector General's (OIG's) List of Excluded Individuals/Entities (Exclusion List) will be subject to immediate termination from the Medicaid drug rebate program unless and until the manufacturer is reinstated by the OIG. Appeals of exclusion and any reinstatement will be handled in accordance with section 1128 of the Act and applicable regulations. Manufacturers that are on the OIG Exclusion List and are reinstated by the OIG under certain circumstances may be evaluated for reinstatement to the Medicaid drug rebate program by CMS. Reinstatement to the Medicaid drug rebate program would be for the next rebate period that begins more than 60 days from the date of the OIG's reinstatement of the manufacturer after exclusion.

(d) If this rebate agreement is terminated, the manufacturer is prohibited from entering into another rebate agreement as set forth in section 1927(b)(4)(C) of the Act for at least one rebate period from the effective date of the termination. The manufacturer must also address to the satisfaction of CMS any outstanding violations from any previous rebate agreement(s), including, but not limited to, payment of any outstanding rebates and also make good faith efforts to appeal or resolve matters pending with the OIG relating to the MDRP or exclusion as referenced in subsection (c) of this section, unless the Secretary finds good cause for earlier reinstatement.

(e) Any nonrenewal or termination will not affect rebates due before the effective date of termination.

VIII. General Provisions

(a) This agreement is authorized by the applicable provisions of sections 1902, 1903, 1905, and 1927 of the Act, and the implementing regulations at 42 CFR part 447. This agreement is subject to any changes in the Medicaid statute or regulations that affect the rebate program.

(b) Any notice required to be given pursuant to the terms and provisions of this agreement will be permitted in writing or electronically.

Notice to the Secretary will be sent to: Centers for Medicaid and CHIP Services, Disabled & Elderly Health Programs Group, Division of Pharmacy, Mail Stop S2–14–26, 7500 Security Blvd., Baltimore, MD 21244.

The CMS address may be updated upon notice to the manufacturer.

Notice to the manufacturer will be sent to the email and/or physical mailing address as provided under section X of this agreement and updated upon manufacturer notification to CMS at the email and/or address in this agreement.

(c) In the event of a transfer in ownership of the manufacturer, this agreement and any outstanding rebate liability are automatically assigned to the new owner subject to the conditions as set forth in section 1927 of the Act.

(d) Nothing in this agreement will be construed to require or authorize the commission of any act contrary to law. If any provision of this agreement is found to be invalid by a court of law, this agreement will be construed in all respects as if any invalid or unenforceable provision were eliminated, and without any effect on any other provision.

(e) Nothing in this agreement shall be construed as a waiver or relinquishment of any legal rights of the manufacturer or the Secretary under the Constitution, the Act, other federal laws, or state laws.

(f) The rebate agreement shall be construed in accordance with Federal law and ambiguities shall be interpreted in the manner which best effectuates the statutory construct.

(g) The terms ''State Medicaid Agency'' and ''Manufacturer'' incorporate any contractors which fulfill responsibilities pursuant to the agreement unless such contractors are specifically excluded in the rebate agreement or such exclusion is specifically agreed to by an appropriate CMS official.

(h) Except for the conditions specified in II.(g). and VIII.(a)., as well as applicable OMB-approved forms, this agreement will not be altered.

(i) In the event that a due date falls on a weekend or Federal holiday, the report or other item will be due on the first business day following that weekend or Federal holiday.

IX. CMS–367

CMS–367 attached hereto is part of this agreement.

X. Signatures

FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

By: _____ Date: _____
(signature)

Title: Director
Disabled and Elderly Health Programs Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services

ACCEPTED FOR THE MANUFACTURER

I certify that I have made no alterations, amendments or other changes to this rebate agreement.

By: _____ _____
(signature) (please print name)
Title: _____
Name of Manufacturer: _____
Manufacturer Address _____
_____

Manufacturer Labeler Code(s): _____
Date: _____

CMS-367a

CMS RECORD SPECIFICATION
DDR QUARTERLY PRICING DATA
TEXT FILE FOR TRANSFER TO CMS

Source: Drug Manufacturers
Target: CMS

Field	Size	Position	Remarks
Record ID	1	1 - 1	Constant of "Q"
Labeler Code	5	2 - 6	NDC #1
Product Code	4	7 - 10	NDC #2
Package Size	2	11 – 12	NDC #3
Period Covered	5	13 – 17	QYYYY (Qtr/Yr)
Average Mfr Price	12	18 – 29	99999.999999
Best Price	12	30 – 41	99999.999999
Nominal Price	9	42 – 50	***999999999***
Customary Prompt Pay Disc.	9	51 – 59	***999999999***
Initial Drug Available for LE	1	60-60	***Y, N, X or Z***
Initial Drug	9	61-69	***9 digits alpha-numeric***

CMS-367a According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578 (Expires: 12/31/2019). The time required to complete this information collection is estimated to average 34.8 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

QUARTERLY PRICING DATA FIELDS – CMS-367a

Labeler Code: First segment of National Drug Code that identifies the labeler. Numeric values only, 5-digit field, right-justified and zero-filled.

Product Code: Second segment of National Drug Code. Alpha-numeric values, 4-digit field, right justified, zero-filled.

Package Size Code: Third segment of National Drug Code. Alpha-numeric values, 2-digit field, right justified, zero-filled.

Period Covered: Calendar quarter and year covered by data submission. Numeric 5-digit field, QYYYY.

Valid values for Q:

1 = January 1 - March 31
2 = April 1 - June 30
3 = July 1 - September 30
4 = October 1 - December 31

Valid values for YYYY: 4-digit calendar year.

Average Manufacturer's Price (AMP): The AMP per unit per product code for the period covered. If a drug is distributed in multiple package sizes, there will be one "weighted" AMP for the product, which is the same for all package sizes. Compute to 7 decimal places, and round to 6 decimal places. Numeric values, 12-digit field: 5 whole numbers, the decimal place ('.') and 6 decimal places; right-justified, zero-filled.

Best Price: Per the statute and rebate agreement, the lowest price available per product code, regardless of package size. Compute to 7 decimal places and round to 6 decimal places. Zero-fill for Non-Innovator Multiple Source drugs. Numeric values, 12-digit field: 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified, zero-filled.

Nominal Price (NP): Sales that meet the statutory/regulatory definition of NP. Total dollar figure per 11-digit NDC, rounded to nearest dollar. 9-digit field; 9 whole numbers; right-justified, 0-filled. If no sales for a package size, fill with all zeroes.

Customary Prompt Pay Discount (CPP): Labelers may 1) allocate an individual CPP discount dollar amount per 11-digit NDC in each package size's record, or 2) report an aggregate discount dollar amount, by adding up all package sizes, and report this aggregate CPP discount dollar amount in one package size record and zero-fill the remaining package sizes. 9-digit field; 9 whole numbers; right-justified, 0-filled.

Initial Drug Available for LE: Identifies whether a line extension drug has an Initial Drug available for the quarter/year being reported.

Valid Values:

Y = Yes
N = No
X = X-Not an LE Drug
Z = Not Applicable (for quarters prior to 2Q2016, or for quarters in which the NDC or labeler was not active).

Initial Drug: Identifies the drug (from which a line extension drug is derived) with the highest additional rebate ratio (calculated as a percentage of AMP) for the quarter/year being reported. The Initial Drug's additional rebate ratio is then used in the alternative URA calculation for the line extension drug. The Initial Drug should fall under the same corporation as the corresponding line extension drug, and must be active within the MDR Program at the time it is reported as an Initial Drug. Numeric values only, 9-digit field, right-justified and zero-filled.

CMS-367b

CMS RECORD SPECIFICATION
DDR MONTHLY PRICING DATA
TEXT FILE FOR TRANSFER TO CMS

Source: Drug Manufacturers
Target: CMS

Field	Size	Position	Remarks
Record ID	1	1 – 1	Constant of "M"
Labeler Code	5	2 – 6	NDC #1
Product Code	4	7 – 10	NDC #2
Package Size	2	11 – 12	NDC #3
Month	2	13 – 14	MM
Year	4	15 – 18	YYYY
Average Mfr Price	12	19 – 30	99999.999999
AMP Units	14	31 – 44	99999999999.99
5i Threshold	1	45 - 45	Y, N, X, or Z

CMS-367b According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578 (Expires: 12/31/2019). The time required to complete this information collection is estimated to average 44.8 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

CMS-367c

CMS RECORD SPECIFICATION
DDR DRUG PRODUCT DATA
TEXT FILE FOR TRANFER TO CMS

Source: Drug Manufacturers

Target: CMS

Field	Size	Position	Remarks
Record ID	1	1 – 1	Constant of "P"
Labeler Code	5	2 – 6	NDC #1
Product Code	4	7 – 10	NDC #2
Package Size Code	2	11 - 12	NDC #3
Drug Category	1	13 - 13	See Data Element Definitions
Unit Type	3	14 - 16	See Data Element Definitions
FDA Approval Date	8	17 - 24	MMDDYYYY
FDA Thera. Eq. Code	2	25 - 26	See Data Element Definitions
Market Date	8	27 - 34	MMDDYYYY
Termination Date	8	35 - 42	MMDDYYYY
Drug Type Indicator	1	43 – 43	See Data Element Definitions
OBRA'90 Baseline AMP	12	44 – 55	99999.999999
Units Per Pkg Size	11	56 – 66	9999999.999
FDA Product Name	63	67 – 129	FDA Product Name
DRA Baseline AMP	12	130 – 141	99999.999999
Package Size Intro Date	8	142 – 149	MMDDYYYY
Purchased Product Date	8	150 – 157	MMDDYYYY
5i Drug Indicator	1	158 – 158	See Data Element Definitions
5i Route of Administration	3	159 – 161	See Data Element Definitions
ACA Baseline AMP	12	162 - 173	99999.999999
COD Status	2	174 – 175	See Data Element Definitions
FDA Appl. No./OTC Mono. No.	7	176 – 182	See Data Element Definitions
Line Extension Drug Indicator	1	183 – 183	See Data Element Definitions

*Reactivation Date	*n/a	*n/a	*This field may only be submitted online via DDR. See Data Element Definitions

CMS-367c According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578 (Expires: 12/31/2019). The time required to complete this information collection is estimated to average 53.5 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

DRUG PRODUCT DATA FIELDS – CMS-367c

Labeler Code: First segment of National Drug Code that identifies the labeler. Numeric values only, 5-digit field, right-justified and zero-filled.

Product Code: Second segment of National Drug Code. Alpha-numeric values, 4-digit field, right justified, zero-filled.

Package Size Code: Third segment of National Drug Code. Alpha-numeric values, 2-digit field, right justified, zero-filled.

Drug Category: Alpha-numeric values, 1 character.

Valid values:

S = Single source
I = Innovator multiple source
N = Non-innovator multiple source

Unit Type: One of the 8 unit types by which the drug is dispensed. Alpha-numeric values, 3-character field, left justified.

Valid values:

AHF = Injectable Anti-Hemophilic Factor
CAP = Capsule
SUP = Suppository
GM = Gram
ML = Milliliter
TAB = Tablet
TDP = Transdermal Patch
EA = EACH

FDA Approval Date: NDA or monograph approval date. Numeric values, 8-digit field, format: MMDDYYYY.

FDA TEC: FDA-assigned Therapeutic Equivalence Codes. Alpha-numeric values, 2 character field.

Valid values:

AA	BC	BS
AB	BD	BT
AN	BE	BX
AO	BN	NR - Not rated
AP	BP	A1 thru A9 = AB value
AT	BR	

Market Date: For S and I drugs, the date the drug was first marketed by the original labeler (i.e., NDA holder). For N drugs, the date the drug was first marketed under the labeler's rebate agreement. If a Market Date falls on a date that is earlier than 9/30/1990, CMS will change it to 9/30/1990 in both the Medicaid Drug Rebate (MDR) system and the Drug Data Reporting for Medicaid (DDR) system since dates earlier than the start of the Drug Rebate Program have no bearing on the program. Numeric values, 8-digit field, format: MMDDYYYY.

Termination Date: The date a drug is withdrawn from the market or the drug's last lot expiration date. (Note: Initial termination date submissions may be provided via file transfer; however, subsequent changes to this field may only be submitted online via DDR.) Zero or blank fill if not present. Numeric values, 8-digit field, format: MMDDYYYY.

Drug Type Indicator: Identifies a drug as prescription (Rx) or over-the-counter (OTC).

Valid Values:
1 = Rx
2 = OTC

OBRA'90 Baseline AMP: The AMP per unit for the period that establishes the OBRA'90 Baseline AMP for innovator drugs. There will be one weighted baseline AMP for the product, which will be the same for all package sizes. Compute to 7 decimal places and round to 6 decimal places. Numeric values, 12-digit field: 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified, zero-filled.

Units Per Package Size: Total number of units in the smallest dispensable amount for the 11-digit NDC. Numeric values, 11-digit field: 7 whole numbers, the decimal ('.') and 3 decimal places; right-justified, zero-filled.

FDA Product Name: Drug name as it appears on FDA listing form. Alpha-numeric values, 63 characters, left justified, blank-fill unused positions.

DRA Baseline AMP (optional): For active innovator drugs with a Market Date less than July 1, 2007, the OBRA'90 or OBRA'93 Baseline AMP revised in accordance with relevant regulations and program guidance. There will be one weighted DRA Baseline AMP for the product, which will be the same for all package sizes. Per CMS-2238-FC, labelers had 4 quarters (i.e., January 2, 2008 – October 30, 2008) to report this optional field. Numeric values, 12-digit field; 5 whole numbers, the decimal ('.') and 6 decimal places, right- justified, zero-filled. Compute to 7 decimal places and round to 6 decimal places.

Package Size Introduction Date: The date the package size is first available on the market. Numeric values, 8-digit field, format: MMDDYYYY

Purchased Product Date: The date the company currently holding legal title to the NDC first markets the drug under this NDC (this date can result, for example, from the purchase of an NDC from one company by another company, the re-designation of an NDC from one of a company's labeler codes to another of that same company's labeler codes, cross-licensing arrangements, etc.). Zero or blank fill if not applicable. Numeric values, 8-digit field, format: MMDDYYYY

5i Drug Indicator: Identifies whether a product is a 5i Drug. Alpha-numeric values; 1-digit field.

Valid Values:

Y = Yes
N = No

5i Route of Administration: Identifies the method by which the 5i drug is administered to a patient. If a product is not a 5i drug, a value of "000" (Not Applicable) should be entered. Numeric values; 3-digit field.

Valid Values:

000 = Not Applicable
001 = Implanted
002 = Infused
003 = Inhaled
004 = Injected
005 = Instilled

ACA Baseline AMP (Optional): For active innovator drugs, the OBRA'90, OBRA'93 or DRA Baseline AMP revised in accordance with the statute and relevant program guidance. There will be one weighted ACA Baseline AMP for the product, which will be the same for all package sizes. Numeric values, 12-digit field; 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified; zero-filled. Compute to 7 decimal places and round to 6 decimal places.

Covered Outpatient Drug (COD) Status: A category that identifies whether or not a product meets the statutory definition of a covered outpatient drug in accordance with sections

1927(k)(2) to 1927(k)(4) of the Social Security Act. Numeric values, 2-character field.

Valid Values:

01 = Abbreviated New Drug Application (ANDA)
02 = Biologics License Application (BLA)
03 = New Drug Application (NDA)
04 = NDA Authorized Generic
05 = DESI 5* – LTE/IRS drug for all indications
06 = DESI 6* – LTE/IRS drug withdrawn from market
07 = Prescription Pre-Natal Vitamin or Fluoride
08 = Prescription Dietary Supplement/Vitamin/Mineral (Other than Prescription Pre-Natal Vitamin or Fluoride)
09 = OTC Monograph Tentative
10 = OTC Monograph Final
11 = Unapproved Drug – Drug Shortage
12 = Unapproved Drug – Per 1927(k)(2)(A)(ii)
13 = Unapproved Drug – Per 1927(k)(2)(A)(iii)

*NDCs with a COD Status of DESI 5/6 are not eligible for coverage or rebates under the Medicaid Drug Rebate Program.

FDA Application Number/OTC Monograph Number: For drugs with a COD status of ANDA, BLA, NDA, or NDA Authorized Generic, this is the seven-digit application number that is assigned by the FDA for approval to market a generic drug or new drug in the United States. Numeric field; 7 characters, fill with leading zeros as needed.

For drugs with a COD status of OTC Monograph Tentative or Final, this is the FDA's regulatory citation for the OTC. 7 alpha-numeric characters. For drugs with a COD Status of OTC Monograph Final, the first four characters are a constant of "PART"; the last three characters are the numeric values for the appropriate regulatory citation for the product (for example, "225"). For drugs with a COD Status of OTC Monograph Tentative, the first four characters are a constant of "PART"; the last three characters are the numeric values for the appropriate regulatory citation for the product, or 3 zeros if a Monograph Number is not available.

For drugs with a COD Status other than ANDA, BLA, NDA, NDA Authorized Generic, OTC Monograph Final, or OTC Monograph Tentative, the FDA Application No./OTC Monograph No. field should be zero-filled.

Reactivation Date: The date on which a terminated product is re-introduced to the market. (Note: This field may only be submitted online via DDR and is **NOT** part of the actual File Transfer Layout.)

Line Extension Drug Indicator: Identifies whether a product is a line extension drug as defined in Section 1927 (c)(2)(C) of the Social Security Act.

Valid Values:

Y = Yes
N = No

CMS-367d

MEDICAID DRUG REBATE AGREEMENT

ENCLOSURE B (PAGE 1 OF 2)
SUPPLEMENTAL DATA

LABELER CODE (as assigned by FDA)

LABELER NAME (Corporate name associated with labeler code)

LEGAL CONTACT – Person to contact for legal issues concerning the rebate agreement

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

INVOICE CONTACT – Person responsible for processing invoice utilization data

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

Note: This sheet is to be returned with the signed rebate agreement. If more than one labeler code, attach one sheet for each code.

CMS-367d According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578 (Expires: 12/31/2019). The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

MEDICAID DRUG REBATE AGREEMENT

ENCLOSURE B (PAGE 2 OF 2)
SUPPLEMENTAL DATA

LABELER CODE (as assigned by FDA)

LABELER NAME (Corporate name associated with labeler code)

TECHNICAL CONTACT – Person responsible for sending and receiving data

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

FAX #

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

Note: This sheet is to be returned with the signed rebate agreement. If more than one labeler code, attach one sheet for each code.

CMS-367d According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578 (Expires: 12/31/2019) . The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

Dated: February 20, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: March 16, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–05947 Filed 3–22–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3352–N]

Medicare Program; Announcement of the Approval of the American Association for Laboratory Accreditation (A2LA) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the approval of the application of the American Association for Laboratory Accreditation (A2LA) as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program for all specialty and subspecialty areas under CLIA. We have determined that the A2LA meets or exceeds the applicable CLIA requirements. We are announcing the approval and granting the A2LA deeming authority for a period of 4 years.

DATES: *Applicable Date:* This notice is applicable from March 23, 2018 to March 23, 2022.

FOR FURTHER INFORMATION CONTACT: Cindy Flacks, (410) 786–6520.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, we may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

II. Notice of Approval of the A2LA as an Accreditation Organization

In this notice, we approve the American Association for Laboratory Accreditation (A2LA) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements for all specialty and subspecialty areas under CLIA. We have examined the initial A2LA application and all subsequent submissions to determine the equivalency of its accreditation program with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that the A2LA meets or exceeds the applicable CLIA requirements. We have also determined that the A2LA will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R.

Therefore, we grant the A2LA approval as an accreditation organization under 42 CFR part 493, subpart E for the period stated in the **DATES** section of this notice for all specialty and subspecialty areas under CLIA. As a result of this determination, any laboratory that is accredited by the A2LA during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the listed subspecialties and specialties, and therefore, will generally not be subject to routine inspections by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

III. Evaluation of the A2LA Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the A2LA accreditation program meets the necessary requirements to be approved by CMS and that, as such, CMS may approve the A2LA as an accreditation program with deeming authority under the CLIA program. The A2LA formally applied to CMS for approval as an accreditation organization under CLIA for all specialties and subspecialties under CLIA. In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The A2LA submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. The A2LA policies and procedures for oversight of laboratories performing laboratory testing for all CLIA specialties and subspecialties are equivalent to those of CLIA in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. The A2LA submitted requirements for monitoring and inspecting laboratories in the areas of accreditation organization, data management, the inspection process, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. The requirements of the accreditation program submitted for approval are equal to or more stringent than the requirements of the CLIA regulations.

B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

The A2LA's requirements are equal to or more stringent than the CLIA requirements at §§ 493.801 through 493.865. For instance, the A2LA requires that laboratories conduct proficiency testing activities for both primary and secondary test systems for waived and non-waived testing. The CLIA requirement at § 493.801(b)(6) requires proficiency testing activities for the primary test system and for non-waived testing only.

C. Subpart J—Facility Administration for Nonwaived Testing

The A2LA requirements for the submitted subspecialties and specialties are equal to the CLIA requirements at §§ 493.1100 through 493.1105.

D. Subpart K—Quality System for Nonwaived Testing

The A2LA requirements are equal to the CLIA requirements at §§ 493.1200 through 493.1299.

E. Subpart M—Personnel for Nonwaived Testing

We have determined that the A2LA's requirements are equal to the CLIA requirements at §§ 493.1403 through 493.1495 for laboratories that perform moderate and high complexity testing.

F. Subpart Q—Inspections

We have determined that the A2LA requirements for the submitted subspecialties and specialties are equal to or more stringent than the CLIA requirements at §§ 493.1771 through 493.1780. The A2LA requires annual review of all accredited laboratories. The laboratory is required to submit any updates on information about its organization, facilities, key personnel and results of any proficiency testing. Laboratories may be required to undergo an onsite surveillance visit if they do not submit their annual review documentation to the A2LA by the established 30 day deadline, if significant changes to the facility or organization have occurred, or if proficiency testing results have been consistently poor. The CLIA regulations do not have this requirement.

G. Subpart R—Enforcement Procedures

The A2LA meets the requirements of subpart R to the extent that it applies to accreditation organizations. The A2LA policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the A2LA will deny, suspend, or revoke accreditation in a laboratory accredited by the A2LA and report that action to us within 30 days. The A2LA also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the A2LA's laboratory enforcement and appeal policies are equal to the requirements of part 493, subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of laboratories accredited by the A2LA may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the State survey agencies, will be our principal means for verifying that the laboratories accredited by the A2LA remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the A2LA, for cause, before the end of the effective date of approval. If we determine that the A2LA has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which the A2LA would be allowed to address any identified issues. Should the A2LA be unable to address the identified issues within that timeframe, we may, in accordance with the applicable regulations, revoke A2LA's deeming authority under CLIA.

Should circumstances result in our withdrawal of the A2LA's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the CLIA program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Dated: March 8, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–05892 Filed 3–22–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Initial Medical Exam Form and Initial Dental Exam Form.

OMB No.: 0970–0466.

Description:

The Administration for Children and Families' Office of Refugee Resettlement (ORR) places unaccompanied minors in their custody in licensed care provider facilities until reunification with a qualified sponsor. Care provider facilities are required to provide children with services such as classroom education, mental health services, and health care. Pursuant to Exhibit 1, part A.2 of the *Flores* Settlement Agreement (Jenny Lisette Flores, *et al.,* v. Janet Reno, Attorney General of the United States, *et al.,* Case No. CV 85–4544–RJK (C.D. Cal. 1996), care provider facilities, on behalf of ORR, shall arrange for appropriate routine medical and dental care and emergency health care services, including a complete medical examination and screening for infectious diseases within 48 hours of admission, excluding weekends and holidays, unless the minor was recently examined at another facility; appropriate immunizations in accordance with the U.S. Public Health Service (PHS), Center for Disease Control; administration of prescribed medication and special diets; appropriate mental health interventions when necessary for each minor in their care.

The forms are to be used as worksheets for clinicians, medical staff, and health departments to compile information that would otherwise have been collected during the initial medical or dental exam. Once completed, the forms will be given to shelter staff for data entry into ORR's secure, electronic data repository known as 'The UAC Portal'. Data will be used to record UC health on admission and for case management of any identified illnesses/conditions.

Respondents: Office of Refugee Resettlement Grantee staff.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Initial Medical Exam Form (including Appendix A: Supplemental TB Screening Form)	150	297	0.20	8,910
Initial Dental Exam Form	150	30	0.07	315

Estimated Total Annual Burden Hours: 9,225.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2018–05923 Filed 3–22–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Division of Cancer Epidemiology and Genetics (DCEG) (National Cancer Institute)

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jackie Lavigne, Ph.D., MPH, Chief, Office of Education, Division of Cancer Epidemiology and Genetics, 9609 Medical Center Drive, MSC, Bethesda, Maryland 20892 or call non-toll-free number 240.276.7237 or Email your request, including your address to: *lavignej@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 20, 2017, page 60407 (82 FR 60407) and allowed 60 days for public comment. No public comments were received. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Fellowship Program and Summer Student Applications OMB No. 0925–0716 Expiration Date 05/31/2018 Extension, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute, Division of Cancer Epidemiology and Genetics (DCEG) Office of Education administers a variety of programs and initiatives to recruit pre-college through post-doctoral educational level individuals into the Intramural Research Program to facilitate their development into future biomedical scientists. DCEG trains post-doctoral, doctoral candidates, graduate and baccalaureate students, through full time fellowships, summer fellowships, and internships in preparation for research careers in cancer epidemiology and genetics. The proposed information collection involves brief online applications completed by applicants to the full time and the summer fellowship programs. Full-time fellowships include: Full-time Equivalents (FTE) and non-FTE fellowships for US citizens, permanent residents and international fellows. These applications are essential to the administration of these training programs as they enable OE to determine the eligibility and quality of potential awardees; to assess their potential as future scientists; to determine where mutual research interests exist; and to make decisions regarding which applicants will be proposed and approved for traineeship awards. In each case, completing the application is voluntary, but in order to receive due consideration, the

prospective trainee is encouraged to complete all relevant fields. The information is for internal use to make decisions about prospective fellows and students that could benefit from the DCEG program.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 175 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Fellowship Program Application (Attach 1)	Full-time Fellows	150	1	30/60	75
Summer Program Application (Attach 2)	Summer Students	300	1	20/60	100
Totals		450	450		175

Dated: March 8, 2018.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2018–05920 Filed 3–22–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0046]

National Offshore Safety Advisory Committee; Vacancies

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard seeks applications for membership on the National Offshore Safety Advisory Committee. The National Offshore Safety Advisory Committee advises the Secretary of the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction. Applicants selected for service on the National Offshore Safety Advisory Committee via this solicitation will not begin their respective terms until January 31, 2019.

DATES: Completed applications should reach the U.S. Coast Guard on or before May 22, 2018.

ADDRESSES: Applicants should send a cover letter including a statement of interest in an appointment to the National Offshore Safety Advisory Committee that also identifies under which membership category the applicant is applying, along with a resume detailing the applicant's experience via one of the following methods:

- *By Email: patrick.w.clark@uscg.mil.*
- *By Fax:* (202) 372–8382 ATTN: Mr. Patrick Clark, Alternate Designated Federal Officer; or
- *By Mail:* Mr. Patrick W. Clark, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant, (CG–OES–2)/NOSAC U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7509, Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Clark, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant, (CG–OES–2)/NOSAC U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509; email *patrick.w.clark@uscg.mil;* telephone (202) 372–1358; fax (202) 372–8382.

SUPPLEMENTARY INFORMATION: The National Offshore Safety Advisory Committee is a Federal Advisory Committee established in accordance with the provisions of the Federal Advisory Committee Act (Title 5 U.S.C. Appendix) to advise the Secretary of the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

The Committee normally meets twice a year: Once in March in New Orleans, Louisiana, and then in September in Houston, Texas. Each National Offshore Safety Advisory Committee member serves a term of office up to three (3) years. Members may serve a maximum of two (2) consecutive terms. All members serve at their own expense and receive no salary or reimbursement of travel expenses, or other compensation from the Federal Government.

We will consider applications for the 4 positions listed below that will be vacant on January 31, 2019:

(a) One member representing companies, organizations, enterprises or similar entities engaged in offshore operations;

(b) One member representing companies, organizations, enterprises or similar entities providing diving services to the offshore industry;

(c) One member representing companies, organizations, enterprises or similar entities providing subsea engineering, construction or remotely operated vehicle support to the offshore industry; and,

(d) One member of the general public;

To be eligible, applicants for positions (a), (b), or (c) should be employed by companies, organizations, enterprises or similar entities associated with the exploration for, and the recovery of oil, gas and other mineral resources on the U.S. Outer Continental Shelf; and have expertise, knowledge and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for, and the recovery of, offshore mineral resources.

If you are selected as a member from the general public you will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18 United States Code. As a candidate for appointment as a Special Government Employee, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). The U.S. Coast Guard may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Only the Designated U.S. Coast Guard Ethics Official or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the website of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed above in **FOR FURTHER INFORMATION CONTACT**.

Registered lobbyists are not eligible to serve on Federal Advisory Committees in an individual capacity. See ''Revised

Guidance on Appointment of Lobbyist to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). The position we list for a member from the general public would be someone appointed in their individual capacity and would be designated a Special Government Employee as defined in 202 (a) of Title 18, United States Code. Registered lobbyists are lobbyists as defined in Title 2 U.S.C. 1602 who are required by Title 2 U.S.C. 1603 to register with the Secretary of the Senate and the Clerk of the House of Representatives.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Patrick Clark, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. All email submittals will receive email receipt confirmation.

Dated: March 20, 2018.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2018–05944 Filed 3–22–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Monochrome Laser Printers and Replacement Toner Cartridges

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain monochrome laser printers and replacement toner cartridges. Based upon the facts presented, CBP has concluded that the country of origin of the monochrome laser printers and replacement toner cartridges in question is Japan, for purposes of U.S. Government procurement.

DATES: The final determination was issued on March 19, 2018. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within April 23, 2018.

FOR FURTHER INFORMATION CONTACT: Yuliya A. Gulis, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325–0042.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 19, 2018 pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain monochrome laser printers and replacement toner cartridges, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, HQ H287548, was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. §§ 2511–18). In the final determination, CBP concluded that the country of origin of the monochrome laser printers is Japan for purposes of U.S. Government procurement. CBP also determined that the country of origin of replacement toner cartridges is Japan for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: March 19, 2018.

Alice A. Kipel,

Executive Director, Regulations and Rulings, Office of Trade.

HQ H287548

March 19, 2018

OT:RR:CTF:VS H287548 YAG

CATEGORY: Origin

Mr. Stanley R. Soya
Baker Botts LLP
The Warner
1299 Pennsylvania Avenue, NW
Washington, D.C. 20004–2400

RE: U.S. Government Procurement; Country of Origin of Monochrome Laser Printers and Replacement Toner Cartridges; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511 *et seq.*); Subpart B, Part 177, CBP Regulations

Dear Mr. Soya:

This is in response to your correspondence, dated June 14, 2017, requesting a final determination, pursuant to subpart B of Part 177 of the U.S. Customs and Border Protection (''CBP'') Regulations (19 C.F.R. § 177.21 *et seq.*), on behalf of your clients, Brother Industries (U.S.A.) (''BIUS'') and Brother International Corporation (''BIC'') (collectively ''Brother''), concerning the country of origin of monochrome laser printers and replacement toner cartridges.

We note that BIUS and BIC are parties-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and are entitled to request this final determination.

FACTS:

Monochrome Laser Printers:

Brother plans to manufacture two new printer models in the United States: (1) the HL–L6400DWG, a printer, and (2) the MFC–L6900DWG, a multifunctional printer/scanner/copier/fax (collectively ''monochrome laser printers''). These monochrome laser printers will be comprised of approximately 1,100 parts and components from several countries, including Japan, the Philippines, China, and Vietnam. The printers are comprised of 8 main subassemblies, as follows:

(1) Main printed circuit board (''PCB'') assembly or motherboard of the machine: It will communicate with the PC, house the memory in the printer, and form the image printed on the page. The main component of the main PCB will be the Application Specific Integrated Circuit (''ASIC''), which includes the Central Processor Unit (''CPU'') and other functional circuits, including the mechanical control circuit, USB communication control circuit, printing data processing circuit, and memory control circuit. Most of the digital processing functions of the main PCB will be processed by the ASIC. The overall ASIC structure and each functional circuit will be designed in Japan and manufactured by third-party suppliers in Japan. The other main components of the main PCB, which include the random-access memory (''RAM''), read-only memory (''ROM''), electrically erasable programmable read-only memory (''EEPROM''), and printed circuit board, will be produced in various other countries. The components of the main PCB assembly will be assembled in Japan.

(2) Firmware: The firmware will be software embedded in the main PCB of the machines to provide the control program for the device. The overall design and most steps in the development of the firmware will be performed in Japan.

(3) Fuser unit: The fuser unit will apply pressure and heat to the printed page to enable toner to permanently melt onto it. The main components of the fuser unit, including a pressure roller, halogen lamp, thermistor

sensor, drive gear, upper case, and lower case, will be produced in various countries. The components of the fuser unit will be assembled in Vietnam.

(4) Automatic Document Feeder (''ADF'') unit: The ADF unit takes up to 80 pages and feeds them one page at a time into the scanner, allowing for the copying, printing or faxing of multi-page documents without requiring the user to manually replace each page. This subassembly will be available for the MFC–L6900DWG. The main components of the ADF unit, including ADF cover, document cover, and document separate roller will be produced in various countries, and assembled in Vietnam.

(5) Organic Photo Conductor (''OPC'') drum unit: The OPC drum unit is an aluminum cylinder that attracts toner using an electrostatic charge that is transferred to paper to create a printed image. The main components of the OPC drum unit, including the OPC drum, corona wire, drive gear, and case, will be produced in various countries, and assembled in Vietnam.

(6) Toner cartridge: The toner cartridge will hold the toner that is transferred to an electrostatically charged OPC drum. The main component of the toner cartridge, the toner powder, will be produced in Japan. All other components of the toner cartridge, including the developer roller, agitator, supply roller, drive gear, and cases, are produced in various countries. The components of the toner cartridge will be assembled in Vietnam.

(7) Operation panel unit: The operation panel unit controls printer functions and communicates information about the printer and print jobs. The main components of the operation panel unit, including the LCD assembly, which displays the machine status and menu, the LCD control board, touch sensor, key switch, and panel cover, will be produced in various countries, and will be assembled in Vietnam.

(8) Body unit: The body unit consists of various components, such as the cover and frame, paper tray, high-voltage and low-voltage power supply boards, paper feeder, laser unit, flatbed document scanner, and modem board. These components will come from various countries, and will be assembled in Vietnam.

It is claimed that the main PCB assembly and the firmware represent the ''brains'' of the printer. Further, it is claimed that the Vietnamese subassembly production of the fuser unit, ADF unit, OPC drum unit, toner cartridge, and body unit, as described above, does not require sophisticated skills or expensive machinery. The subassemblies will be generally assembled in Vietnam by using jigs and an electric screwdriver to connect the individual parts of each unit together.

The final manufacturing operations of the monochrome laser printers will take place in the United States, and will take approximately 40 minutes to complete (this timeframe includes testing of the final product). The manufacturing process for two models of the monochrome laser printers slightly differs in steps, but in both cases, the process involves threading brittle wires through spaces into necessary ports to connect various subassemblies, which requires a degree of precision to ensure that cables and connectors are not damaged or improperly connected. Counsel provided a step-by-step description of the finished printer assembly. Counsel also highlighted the complexity of the process by indicating the fact that, if inserted incorrectly, the cables (which are thin strips of conductive aluminum, coated in a thin layer of insulating material) can break and cause the printer to malfunction throughout its lifecycle. Moreover, there are several cables that, if damaged during the assembly, will require replacement of the entire subassembly upon which the cable is soldered. The main PCB assembly and the firmware, though produced in Japan, will be integrated into the printers in the United States.

Once assembly is completed, both printer models will undergo testing and inspection, which is customized by Brother in Japan to ensure optimal functionality of each printer. Testing and inspection includes not only running Brother's proprietary inspection system, but also a manual inspection of components and overall functioning of the product. These steps will include verifying and installing the firmware to the main PCB assembly and calibrating the position of the laser beam's exposure starting point.

Finally, counsel emphasizes that Brother employees responsible for assembling, inspecting and testing the printers in the United States will be required to undergo approximately two weeks of customized training.

Replacement toner cartridges:

Brother also plans to sell new replacement toner cartridges to the U.S. Government as a separate consumable end-product. The toner cartridges can be used interchangeably in both the model HL-L6400DWG, printer; and the model MFC-L6900DWG, printer/scanner/copier/fax. The cartridges will be mainly comprised of the following parts: (1) toner powder; (2) supply rollers; (3) developer roller; (4) toner uniform blade; and, (5) cleaning unit. Counsel maintains that the toner powder is the most critical component of the cartridge, as it is a complex powder that allows the printers to form an image on paper. Brother's toner powder will be developed and manufactured in Japan at a toner manufacturer's facility. The toner powder will account for approximately 40% of the total parts and cost of the toner cartridges. The finished cartridge will be made of 29 parts from Japan, Vietnam, China, Philippines, Malaysia, and Indonesia. All these components will be brought together by the manufacturing process in Japan to build the replacement cartridges. The most expensive parts of the cartridge include: (1) the toner powder, which is manufactured in Japan; (2) the developer roller, which will be manufactured in Japan and the Philippines; and, (3) the supply roller and the blade, which will be manufactured in China. Counsel claims that the country of origin of Brother replacement toner cartridges is Japan.

ISSUE:

What is the country of origin of the monochrome laser printers and replacement toner cartridges for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979 (''TAA''), as amended (19 U.S.C. § 2511 *et seq.*).

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In rendering final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the Trade Agreements Act. *See* 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define ''U.S.-made end product'' as ''an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.'' *See* 48 C.F.R. § 25.003.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of the operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States,* 6 C.I.T. 204, 573 F. Supp. 1149 (1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). If the manufacturing or combining process is a minor one that leaves the identity of the imported article intact, a substantial transformation has not occurred. *Uniroyal, Inc. v. United States,* 3 C.I.T. 220, 542 F. Supp. 1026 (1982).

In *Energizer Battery, Inc. v. United States,* 190 F. Supp. 3d 1308 (2016), the Court of International Trade (''CIT'') interpreted the meaning of ''substantial transformation'' as used in the TAA for purposes of government procurement. *Energizer* involved the determination of the country of origin of a flashlight, referred to as the Generation II flashlight, under the TAA. All of the components of the Generation II flashlight were of Chinese origin, except for a white LED and a hydrogen getter. The components

were imported into the United States where they were assembled into the finished Generation II flashlight.

The court reviewed the ''name, character and use'' test utilized in determining whether a substantial transformation has occurred and noted, citing *Uniroyal, Inc. v. United States,* 3 C.I.T. at 226, 542 F. Supp. at 1031, *aff'd,* 702 F.2d 1022 (Fed. Cir. 1983), that when ''the post-importation processing consists of assembly, courts have been reluctant to find a change in character, particularly when the imported articles do not undergo a physical change.'' *Energizer* at 1318. In addition, the court noted that ''when the end-use was predetermined at the time of importation, courts have generally not found a change in use.'' *Energizer* at 1319, citing as an example, *National Hand Tool Corp. v. United States,* 16 C.I.T. 308, 310, *aff'd,* 989 F.2d 1201 (Fed. Cir. 1993). Furthermore, courts have considered the nature of the assembly, *i.e.,* whether it is a simple assembly or more complex, such that individual parts lose their separate identities and become integral parts of a new article.

In reaching its decision in *Energizer,* the court expressed the question as one of whether the imported components retained their names after they were assembled into the finished Generation II flashlights. The court found ''[t]he constitutive components of the Generation II flashlight do not lose their individual names as a result [of] the post-importation assembly.'' The court also found that the components had a predetermined end-use as parts and components of a Generation II flashlight at the time of importation and did not undergo a change in use due to the post-importation assembly process. Finally, the court did not find the assembly process to be sufficiently complex as to constitute a substantial transformation. Thus, the court found that Energizer's imported components did not undergo a change in name, character, or use as a result of the post-importation assembly of the components into a finished Generation II flashlight. Virtually all of the components of the military Generation II flashlight, including the most important component, the LED, were of Chinese origin. Thus, the court determined that China was the correct country of origin of the finished Generation II flashlights under the government procurement provisions of the TAA.

Monochrome Laser Printers:

In this case, counsel argues that the country of origin of the monochrome laser printers at issue will be the United States because the printers will be assembled in a process that involves: (1) complex post-importation assembly operations; (2) the installation of the main PCB assembly and a firmware verification and download; and, (3) a customized testing and inspection process. In support of its position, counsel cites Headquarters Ruling Letters (''HQ'') H241146, dated May 21, 2013; HQ H185775, dated December 21, 2011; and, HQ 560677, dated February 3, 1998. We disagree.

In HQ H241146, CBP considered the country of origin of monochrome laser printers. In that case, Chinese subassemblies were imported into the United States, where they were assembled with U.S.-origin PCBs, and programmed with Japanese-origin firmware. CBP found that the last substantial transformation occurred in the United States. While the printers were comprised of subassemblies and components from various countries, they were also comprised of a controller unit assembled in the United States (with U.S.-origin PCBs), which was important to the function of the printers. We note that the case at issue is distinguishable from HQ H241146 because in addition to the final printer assembly in the United States, the printers in HQ H241146 contained U.S.-origin PCBs.

In HQ H185775, CBP considered the country of origin of a multifunction office machine. In that case, the incomplete print engine was produced in Vietnam and consisted of a metal frame, plastic skins, motors, controller board with supplier-provided firmware, a laser scanning system, paper trays, cabling paper transport rollers, and miscellaneous sensing and imaging systems. The incomplete print engine was shipped to Mexico, where the following assemblies were added: the formatter board, scanner/automatic document feeder, control panel, fax card, hard disk drive/solid state drive, firmware (which was developed and written in the United States), along with other minor components and accessories. CBP determined that Mexico was the country of origin because the assembly of the various components resulted in a substantial transformation. We find HQ H185775 distinguishable because the assembly in Mexico involved multiple components from various countries, including TAA-designated countries.

In HQ 560677, CBP considered two different notebook computers manufactured in the United States with parts and components from various countries. CBP concluded that the foreign components used in the manufacture of the notebook computers lost their separate identities and became an integral part of a notebook computer as a result of the operations performed in the United States. We note that HQ 560677 specifically pertains to notebook computers, which is a different product from the monochrome laser printers at issue, and CBP has considered many other scenarios involving the production of printers that are more relevant to this case.

For example, in HQ H219519, dated April 3, 2013, CBP considered the country of origin of a color printer and fax machine under three different scenarios. In scenarios one and two, the color printer and fax machine underwent the following operations in Mexico: final assembly, downloading firmware written in the United States, and testing, which included making settings appropriate to the buyer's country and the client's specific needs. In scenario one, the assembly took 3-4 minutes whereby the external memory drive was installed onto the formatter and the cables were routed as necessary. The firmware for the engine and formatter was downloaded onto the hard drive or solid state drive. In scenario two, the assembly took 7-8 minutes and involved the assembly discussed in scenario one, plus the installation of the intermediate transfer belt. In both scenarios, the testing took 7-14 minutes and included making certain settings for the language, paper, functionality, and other feature settings, as described above. In scenario three, the color printer and fax machine underwent assembly in Mexico that took 2-3 minutes, the firmware for the subsystems (engine, formatter) was downloaded onto the hard drive or solid state drive, and the product underwent testing. The cost of the incomplete print engine was the most expensive of the hardware components, with the formatter board being the second-most expensive component. CBP determined that the country of origin of the imported printers was China under all three scenarios, since the assembly performed in Mexico was not significant enough to result in a substantial transformation of the Chinese components and subassemblies. In reaching its decision, CBP emphasized that all of the components were produced in China (with the exception of the hard disk from Malaysia), including all the significant parts that were the essence of the finished product, particularly the high-cost print engine and formatter board.

With respect to the final assembly processes in the United States, we find that this case is similar to HQ H219519 and the CIT's decision in *Energizer* because the assembly process in the United States is not sufficiently complex for the last substantial transformation to occur in the United States. Rather, all of the fully finished printer subassemblies are manufactured in Vietnam, and the PCB and firmware are made in Japan. Thus, substantial manufacturing operations are performed in these countries. Once the Vietnamese subassemblies and the Japanese-origin PCB are imported into the United States, these 10 subassemblies are soldered/wired together, and programmed with the Japanese-origin firmware. All of these processes, including the testing of the finished printer (which accounts for half of the time of the printer's manufacture), are concluded in just 40 minutes. The manufacturing processes of these subassemblies in the United States do not rise to the level of complex processes necessary for a substantial transformation to occur. In fact, the end-use of the imported and fully assembled subassemblies is already pre-determined at the time of importation. *See Energizer* at 1319. Additionally, despite counsel's attempt to make the manufacturing processes in the United States appear to be more complex, upon reviewing the provided materials, we find that ''threading brittle wires through spaces into necessary ports to connect various subassemblies'' amounts to nothing more than simply feeding the wiring harnesses through designated areas, especially considering that the subassemblies in question are already manufactured in a manner that allows for a relatively easy downstream installation. Accordingly, the manufacturing processes that occur in the United States will not subsume the individual subassemblies into a new and distinct article of commerce that has a new name, character, and use.

As discussed in *Energizer,* in cases in which the post-importation processing entails assembly, courts have considered the nature of the assembly together with the

name, character, or use test in making a substantial transformation determination. *See Ran-Paige Co., Inc. v. United States,* 35 Fed. Cl. 117, 121 (1996); *Belcrest Linens,* 741 F.2d at 1371; *Uniroyal,* 3 C.I.T. at 226, 542 F. Supp. at 1031. The court has sometimes compared the degree of operations in pre versus post-importation processing to evaluate whether a substantial transformation occurred. For example, in *Nat'l Hand Tool,* the court contrasted the pre-importation processing of cold forming and hot-forging and noted that it required more complicated functions than post-importation processing, which included heat treatment and electroplating. 16 C.I.T. at 311; *see also Uniroyal,* 3 C.I.T. at 224-227, 542 F.Supp. at 1029-31 (comparing a post-importation ''minor manufacturing or combining process'' in which imported shoe uppers were attached to outsoles with ''complex manufacturing processes'' that occurred pre-importation when the imported uppers were produced). In such cases, CBP has focused on the importance of other components to make an origin determination.

For example, in HQ H018467, dated January 4, 2008, CBP was asked to consider two manufacturing scenarios for multi-function printers. In one scenario, manufacturing took place in two countries; in the other, it took place in three countries. In the two-country scenario, 18 units were manufactured in the Philippines from components produced in various countries. The units were sent to Japan where the system control board, engine control board, OPC drum unit, and the toner reservoir were manufactured and incorporated into the units. The control boards were programmed in Japan with Japanese firmware that controlled the user interface, imaging, memories, and the mechanics of the machines. The machines were then inspected and adjusted as necessary. CBP found that the manufacturing operations in Japan substantially transformed the Philippine units such that Japan was the country of origin of the multifunctional machines. In making the determination (and in addition to the finding that operations performed in Japan were meaningful and complex and resulted in an article of commerce with a new name, character and use), CBP took into consideration the fact that the system control board, the engine control board, and the firmware, which were very important to the functionality of the machines, were manufactured in Japan.

Similarly, in HQ W563491, dated February 8, 2007, CBP was asked to consider a two-country scenario where all of the subassemblies of the multifunction machine were made in China, with the exception of the controller unit subassembly, application specific integrated circuits and firmware, which were made in Japan. In that case, the final assembly, testing, and the final inspection were done in Japan. Although CBP stated that the product assembly in Japan was also complex and meaningful, CBP focused on the origin of key components in finding that the country of origin was Japan. *See also* HQ H020516, dated November 7, 2008 (CBP considered Sharp Andromeda II J models composed of eight main subassemblies, two of which involved processing in Japan. All the engineering, development, design, and artwork were developed in Japan. The multifunctional printer control unit was described as the brain of the model. While some of the components were installed on the control printer board in China, the flash read-only memory which included firmware developed in Japan, was manufactured in Japan. The other unit that involved production in Japan was the process unit, that housed a drum produced in Japan. The process unit was assembled in China. The other subassemblies were assembled in China but certain key components of the subassemblies originated in Japan. The final assembly was performed in Japan. Based on the totality of the circumstances discussed in this ruling, CBP agreed that the Jupiter II J-models were considered a product of Japan).

Similar to HQ H018467, HQ W563491, and HQ H020516, in this case, the main PCB assembly is the motherboard of the printers, which communicates with the PC, houses the memory in the printer, and forms the image printed on the page. It also includes key functional circuits, including mechanical control and printing data processing. Additionally, the overall structure and each functional circuit of the ASIC, the main component of PCB, will be designed in Japan and manufactured by third-party suppliers in Japan. The firmware itself provides the control program for the printers and enables the main PCB assembly to function as the electronic ''brains'' of the printers by controlling all printer functions. The main PCB assembly (consisting of approximately 1,028 components) and the firmware, produced in Japan, a TAA-designated country, account for a significant percentage of the total subassembly cost. Together, the firmware and the main PCB, which serve major functions and are high in value, constitute the essential character of the printers. We note that in the three rulings referenced above, the key components and the firmware were manufactured and developed in the same country in which the final assembly took place. This is not the case here. However, considering that the production of the printer occurs in three countries, we find the last substantial transformation to occur in Japan, given that the essential character of the printer is made in Japan. Accordingly, we find that Japan is the country of origin of the monochrome laser printers.

Replacement toner cartridges:

Finally, counsel argues that Japan is the country of origin for the Brother replacement toner cartridges. Several CBP rulings are cited in counsel's submission. HQ H251592, dated June 24, 2014, describes an AIO cartridge with three main components: 1) toner powder; 2) developer unit; and, 3) cleaning unit. In HQ H251592, CBP determined that the processing in Japan substantially transformed the non-Japanese components. We find that a similar rationale can be applied to Brother's replacement cartridges. Therefore, it is the opinion of this office that the country of origin of the replacement toner cartridges will be Japan.

HOLDING:

Based on the facts provided, the imported fully assembled printer subassemblies from Japan and Vietnam will not be substantially transformed into finished monochrome laser printers by the processes that take place in the United States. However, the finished monochrome laser printers will be considered a product of Japan for purposes of U.S. Government procurement. With respect to the Brother replacement toner cartridges, the country of origin will be Japan.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Monika R. Brenner
for
Alice A. Kipel, Executive Director
Regulations and Rulings
Office of Trade

[FR Doc. 2018–05964 Filed 3–22–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7007–N–03]

60-Day Notice of Proposed Information Collection: Pre-Purchase Homeownership Counseling Demonstration and Impact Evaluation

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 22, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street

SW, Room 4176, Washington, DC 20410–5000; telephone (202) 402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–5000; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone (202) 402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This Notice informs the public that HUD is seeking approval from OMB for the proposed collection of information described in Section A.

A. Overview of Information Collection

Title of Information Collection: Impact Evaluation of the Pre-Purchase Housing Counseling Demonstration.

OMB Approval Number: 2528–0293.

Type of Request: Revision.

Form Number: None.

Description of the Need for the Information and Proposed Use: The U.S. Department of Housing and Urban Development (HUD) is conducting a national study on the effectiveness of pre-purchase homeownership counseling services. This request covers four data collection activities: (1) Administering a final follow-up survey to study participants; (2) extending OMB approval #2528–0293 so that the study can continue to collect updated tracking information from study participants; and (3) extending OMB approval #2528–0293 so that the study can continue to collect consent from the co-borrowers of study participants; and (4) extending OMB approval #2528–0293 so that the study can continue to collect loan origination and servicing data from lenders. The final follow-up survey will be administered to study participants approximately 48 months after they completed the baseline survey. The final survey will provide a comparison of study participants' characteristics from the baseline survey and allow the study to better understand, document, and explain the impacts of first-time homebuyer education and counseling. As part of OMB approval #2528–0293, the study collects updated study participant contact information to locate study participants for the final follow-up survey. Maintaining contact with study participants over time is critical to minimizing attrition and ensuring high response rates to the follow-up surveys. Additionally, the collection of consent from study participants' co-borrowers is necessary to allow the study to collect data related to the characteristics and performance of study participants' mortgage loans. Lastly, as part of OMB approval #2528–0293, the study collects study participants' loan origination and service tracking data from the study's three participating lenders.

Respondents (*i.e.* affected public): Up to 5,854 study participants; approximately 1,000 co-borrowers; and, staff at 3 lenders.

The average time per study participant (up to 5,854 study participants) to complete the final follow-up survey is 30 minutes. The study mails study participant tracking letters twice per year. The average time for study participants' review of the letters and return of the tracking form is 5 minutes. The collection of co-borrower consent involves including the co-borrower consent form in the study's regular tracking letters, along with a request for the co-borrower to review, sign, and return the written consent form. For co-borrowers who do not return the written form, the study will collect consent verbally at the time of the interim survey. The study estimates that approximately 1,000 study participants will have co-borrowers. The co-borrowers' review of the co-borrower consent information and completion of the consent process is estimated to require approximately 5 minutes per co-borrower. The average time for lenders to prepare study participants' loan origination and performance data for the study team is 60 minutes. The study team will ask for this data semi-annually from each lender during the next 3 years from each lender. The total burden for the study is 3,992 hours: 3,903 hours for study participants, 83 hours for co-borrowers, and 6 hours for lenders.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response (mins)	Annual burden hours	Hourly cost per response	Annual cost
Final Follow-up Survey	5,854	1	5,854	30	2,927	*$27.70	$81,078
Tracking Letter	5,854	2	11,708	5	976	*27.70	27,045
Co-borrower Consent Form	1,000	1	1,000	5	83	*27.70	2,310
Loan origination and performance data:							
Lenders	3	2	6	60	6	*35	210
Total	12,711				3,992		110,643

*The average income that our study participants received in the last 12 months is $57,811. This estimate of average income is based on responses to the Short-Term Follow-Up Survey and was weighted to represent the full study sample using sample weights that adjust for follow-up survey nonresponse. Thus, the hourly rate for our study participants is estimated at $27.70 (using the U.S. Office of Personnel's national standard of 2,087 hours per year for a full-time employee).

B. Solicitation of Public Comment

This notice solicits comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 12, 2018.

Todd M. Richardson,

Acting General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2018–05946 Filed 3–22–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2018–N019; FXHC11220900000–167–FF09E33000; OMB Control Number 1018–0148]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Land-Based Wind Energy Guidelines

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service, are proposing to revise an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 23, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0148 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 10, 2017 (82 FR 47021). The following comment was received:

Comment #1: Received from Michael Speerschneider, Senior Director, Permitting Policy and Environmental Affairs, and Gene Grace, Senior Counsel, American Wind Energy Association, on December 11, 2017, via email.

The American Wind Energy Association (AWEA) comments were limited to the accuracy of the estimate of the burden for the collection of information detailed therein. They provided the Service with an estimate of the paperwork and respondent burden required for the wind industry to collect the data associated with the voluntary Land-Based Wind Energy Guidelines (''Guidelines'') on a per project basis. Based on a survey of their member companies involved in the development of wind energy facilities, they believe the updated estimates are a more accurate reflection of the work necessary to adhere to the Guidelines, and respectfully requested that the Service utilize this estimate, combined with other assumed costs (*e.g.,* government agency costs) in this and any other analysis of the Guidelines going forward. Rather than have individual companies submit their respective data with respect to the estimate burden hours related to the Guidelines, AWEA submitted aggregated data and, therefore, chose not to include identifying information for any of their members that supplied the data.

FWS Response to Comment #1: The Service thanks AWEA for the useful comments that they provided on this information collection, and specifically on the estimate of the burden hours and expenditures necessary to adhere to the voluntary Guidelines. We used this information to update the estimated burden, noting that there are significant differences between the Service's burden estimate developed several years ago, and AWEA's current estimate. We assume that these differences are a reflection of the wide range and variability in the size and degree of complexity of commercial-scale wind energy projects, and that changes in cost reflect that variability. We attempted to obtain further clarification and feedback from AWEA on that presumption but received no response.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As wind energy production increased, both developers and wildlife agencies recognized the need for a system to evaluate and address the potential negative impacts of wind energy projects on species of concern. As a result, the Service worked with the wind energy industry, conservation nongovernmental organizations, Federal and State agencies, Tribes, and academia to develop the voluntary Land-Based Wind Energy Guidelines (Guidelines; *http://www.fws.gov/windenergy*) to provide a structured, scientific process for addressing wildlife conservation concerns at all stages of land-based wind energy development. Released in 2012, the Guidelines promote effective communication among wind energy developers and Federal, State, Tribal, and local conservation agencies. When used in concert with appropriate regulatory tools, the Guidelines are the best practical approach for conserving species of concern.

The Guidelines discuss various risks to species of concern from wind energy projects, including collisions with wind turbines and associated infrastructure; loss and degradation of habitat from turbines and infrastructure; fragmentation of large habitat blocks into smaller segments that may not support sensitive species; displacement and behavioral changes; and indirect

effects such as increased predator populations or introduction of invasive plants. The Guidelines assist developers in identifying species of concern that may potentially be affected by proposed projects, including but not limited to:

- Migratory birds;
- Bats;
- Bald and golden eagles, and other birds of prey;
- Prairie chickens and sage grouse; and
- Species that have been identified as candidates, or proposed or listed under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The Guidelines follow a tiered approach. The wind energy developer begins at Tier 1 or Tier 2, which entails gathering of existing data to help identify any potential risks to wildlife and their habitats at proposed wind energy project sites. The developer then proceeds through subsequent tiers, as appropriate, to collect information in increasing detail until the level of risk is adequately ascertained and a decision on whether or not to develop the site can be made. Many projects may not proceed beyond Tier 1 or 2, when developers become aware of potential barriers, including high risks to wildlife. Developers would only have an interest in adhering to the Guidelines for those projects that proceed beyond Tier 1 or 2.

At each tier, wind energy developers and operators should retain documentation to provide to the Service. Such documentation may include copies of correspondence with the Service, results of pre- and post-construction studies conducted at project sites, bird and bat conservation strategies, or any other record that supports a developer's adherence to the Guidelines. The extent of the documentation will depend on the conditions of the site being developed. Sites with greater risk of impacts to wildlife and habitats will likely involve more extensive communication with the Service and longer durations of pre- and post-construction studies than sites with little risk.

Distributed or community-scale wind energy projects are unlikely to have significant adverse impacts to wildlife and their habitats. The Guidelines recommend that developers of these small-scale projects conduct the desktop analysis described in Tier 1 or Tier 2 using publicly available information to determine whether they should communicate with the Service. Since such project designs usually include a single turbine associated with existing development, conducting a Tier 1 or Tier 2 analysis for distributed or community-scale wind energy projects should incur limited non-hour burden costs. For such projects, if there is no potential risk identified, a developer will have no need to communicate with the Service regarding the project or to conduct studies described in Tiers 3, 4, and 5.

Adherence to the Guidelines is voluntary. Following the Guidelines does not relieve any individual, company, or agency of the responsibility to comply with applicable laws and regulations (*i.e.,* species protected by the Endangered Species Act and/or Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c)).

Title of Collection: Land-Based Wind Energy Guidelines.

OMB Control Number: 1018–0148.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Developers and operators of wind energy facilities.

Total Estimated Number of Annual Respondents: 160.

Total Estimated Number of Annual Responses: 160.

Estimated Completion Time per Response: Varies from 1 hour to 3,600 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 282,995.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $36,870,000. Costs will depend on the size and complexity of issues associated with each project. These expenses may include, but are not limited to: Travel expenses for site visits, studies conducted, and meetings with the Service and other Federal and State agencies; training in survey methodologies; data management; special transportation, such as all-terrain vehicles or helicopters; equipment needed for acoustic, telemetry, or radar monitoring; and carcass storage.

Requirement	Annual number of respondents	Number of responses each	Total annual responses	Completion time per response (hours)	Total annual burden hours
Tier 1 (Desktop Analysis)					
Reporting	40	1	40	25	1,000
Recordkeeping				1	40
Tier 2 (Site Characterization)					
Reporting	35	1	35	155	5,425
Recordkeeping				3	105
Tier 3 (Pre-construction studies)					
Reporting	30	1	30	3,100	93,000
Recordkeeping				5	150
Tier 4 (Post-construction fatality monitoring and habitat studies)					
Reporting	45	1	45	3,600	162,000
Recordkeeping				5	225
Tier 5 (Other post-construction studies)					
Reporting	10	1	10	2,100	21,000
Recordkeeping				5	50
Totals	160		160		282,995

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 20, 2018.

Madonna L. Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2018–05931 Filed 3–22–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD04000–LL51010000–ER0000–LVRWK14K1600.17X]

Notice of Availability of the Draft Environmental Impact Statement for the Riley Ridge to Natrona Project, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Mineral Leasing Act of 1920 (MLA), as amended, the Bureau of Land Management (BLM) Rock Springs Field Office has prepared a Draft Environmental Impact Statement (EIS) for the Riley Ridge to Natrona Project (RRNP or Project) and by this Notice announces the beginning of public review to solicit public comments.

DATES: The Draft EIS is now available for public review. To be considered in the Final EIS, written comments on the Draft EIS must be received within 45 days after the Environmental Protection Agency's publication in the **Federal Register** of a Notice of Availability (NOA) of this Draft EIS.

Four public open houses for the proposed Project will be held in Big Piney, Rock Springs, Lander, and Casper, Wyoming. Meeting times and locations will be announced through local media and the BLM Project website at *http://bit.ly/2aW727l* at least 15 days prior to the event. To be considered in the analysis, all comments must be received prior to the close of the public comment period or 15 days after the last public meeting, whichever is later.

ADDRESSES: The Draft EIS and supporting documents will be available electronically on the following BLM website: *http://bit.ly/2aW727l.*

Written comments may be submitted by any of the following methods:

- *Email: BLM_WY_RRNP@blm.gov.*
- *Fax:* 307–352–0329.
- *Mail or Delivery:* BLM High Desert District, Attn: Mark Mackiewicz, BLM National Project Manager, Riley Ridge to Natrona Project, 280 Highway 191 North, Rock Springs, WY 82901.

Copies of the Draft EIS may be examined at the following BLM offices from 7:45 a.m. to 4:30 p.m. MDT, Monday through Friday, except Federal holidays:

- BLM Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming.
- BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming.
- BLM Rawlins Field Office, 1300 N. Third Street, Rawlins, Wyoming.
- BLM Lander Field Office, 1335 Main Street, Lander, Wyoming.
- BLM Casper Field Office, 2987 Prospector Drive, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Mark Mackiewicz, BLM National Project Manager, at:

- *Telephone:* 435–636–3616.
- *Email: mmackiew@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 speak with Mr. Mackiewicz during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM is responding to three applications for right-of-way (ROW) grants submitted by Denbury Green Pipeline-Riley Ridge, LLC (Denbury) and PacifiCorp, doing business as Rocky Mountain Power (collectively referred to as the Applicant), to the BLM for the Project. Denbury submitted an ''Application for Transportation and Utility Systems and Facilities on Federal Lands'' (Standard Form 299) to the BLM for two underground pipeline projects: (1) The Riley Ridge Carbon Dioxide (CO_2) Pipeline Project (WYW–167867) and (2) the Bairoil to Natrona CO_2 Pipeline Project (WYW–168290). In addition, Denbury has proposed two hydrogen sulfide (H_2S) injection wells (WYW–181373) to be sited near the proposed Riley Ridge Sweetening Plant, which is included in the Riley Ridge CO_2 Pipeline Project application. PacifiCorp submitted an application for ROW for a 230-kilovolt (kV) transmission line (WYW–185369) to supply energy to the Riley Ridge Sweetening Plant. The applications for ROW grants for Denbury's Proposed Action were submitted to the BLM on February 19, 2013 (Denbury), and January 25, 2016 (PacifiCorp); the proposal for the injection wells was submitted to the BLM on September 12, 2013. Collectively, the Project consists of the following components (as proposed):

- An underground non-gaseous H_2S/carbon dioxide (CO_2) pipeline from the existing Riley Ridge Treating Plant (a methane and helium recovery facility) to the proposed Riley Ridge Sweetening Plant, consisting of 31 miles of 16-inch-diameter pipe within Sublette County;
- A CO_2 underground pipeline from the proposed Riley Ridge Sweetening Plant to the Bairoil Interconnect, consisting of 129 miles of 24-inch-diameter pipe, and continuing from the interconnect another 84 miles to the terminus at the Natrona Hub within Natrona County;
- The 4.3-acre proposed Riley Ridge Sweetening Plant, located on BLM-administered lands, constructed and operated to separate the CO_2 from the H_2S; the H_2S would be reinjected into deep geologic formations via two proposed injection wells;
- An approximately 1-mile-long 230 kV overhead transmission line that would bring power to the Riley Ridge Sweetening Plant from an existing 230 kV transmission line; and
- Ancillary facilities, such as roads, valves, flowlines, etc.

After reviewing the scope of the Project, the BLM, as the lead Federal agency, determined that the Proposed Action is a major federal action and would require preparation of an EIS in compliance with requirements of NEPA, as amended by the Council on Environmental Quality regulations for implementing NEPA (40 CFR 1500–1508).

On June 9, 2014, the BLM published in the **Federal Register** a Notice of Intent to prepare the EIS. Thirteen agencies are participating as cooperating agencies in preparation of the EIS, including the U.S. Fish and Wildlife Service (USFWS), the National Park Service and the U.S. Army Corps of Engineers (USACE); the State of Wyoming (and associated departments); Fremont, Lincoln, Sublette, Sweetwater, and Natrona counties, Wyoming; and four conservation districts, Natrona County, Popo Agie, Sublette County, and Sweetwater County, in Wyoming. To allow the public an opportunity to review the Project information, the BLM held public meetings from July 14 to July 17, 2014, in Casper, Lander, Big Piney, and Rock Springs, Wyoming. Issues and potential impacts on specific resources were identified during the

scoping and preparation of the Draft EIS.

In the preparation of the Draft EIS and in consideration of scoping comments, an initial evaluation was made of a full range of alternatives. All reasonable alternatives were considered, including one route variation to accommodate avoidance of conflict with existing oil and gas development. Alternative routes that were (1) ineffective (*i.e.,* did not meet the agency's purpose and need), (2) technically or economically infeasible, (3) inconsistent with the basic policy objectives of the management of an area (*e.g.,* land-use plans), (4) remote or speculative (*i.e.,* could not be analyzed), or (5) substantially similar in design or effects to another alternative being analyzed were eliminated from further consideration. The alternative routes considered and eliminated based on screening are briefly described below:

- *Route Option E:* South Pass. This route option was eliminated from further review because it was inconsistent with basic policy objectives. This route option crosses an exclusion area within the Lander Field Office, a national historic landmark, a Visual Resource Class II area, a sage-grouse core area, and four National Historic Trails that share the same alignment (crossed three separate times). Also, the route would be inconsistent with the Green River Field Office Resource Management Plan (RMP), as amended by the Jack Morrow Hills Coordinated Activity Plan (Rock Springs Field Office). In May 2015, Sweetwater County submitted a letter stating the county's preference for Alternative Route E and requesting that the BLM analyze the route in detail in the EIS. However, due to the reasons listed above, the BLM has determined the route is not feasible, therefore, the route remains eliminated from detailed analysis.
- *Route Variation:* Poison Spider Road. This route variation was eliminated because it would be technically infeasible. The route would be congested with multiple rights-of-way, would have limited space for new infrastructure, and would result in substantial challenges for constructability and reclamation.
- *Route Option F:* Beef Gap. This route option was eliminated because the corridor is considered closed in the Lander Field Office RMP because development within the Black Rock designated corridor would not be feasible due to geological resource conflicts (specifically no additional room to site a utility in this corridor).

In addition to these pipeline alternative routes, an aboveground crossing of the pipeline at the Green River was considered as a design alternative to avoid environmental effects on water quality and associated impacts on wildlife and fish if a leak in the pipeline were to occur. However, the CO_2 that would be carried by the pipeline would be in ''supercritical'' form, which, in the case of a leak, would immediately become a gas and would disperse into the atmosphere. The CO_2 would turn into a gas quickly. While no contamination of water resources would be anticipated, atmospheric release of large quantities of CO_2 would be a larger hazard to health and safety given that CO_2 is an asphyxiant. Further, its release may lead to lower temperatures in operations of structures and instrumentation outside of their design temperatures. The Applicant proposes to use horizontal directional drilling (HDD) to install the pipeline underneath the Green River at a depth of at least 30 feet below the river bed. The entry and exit points for HDD would be at least a quarter mile from either side of the Green River. Because the design alternative would be ineffective in avoiding or reducing resource effects and inconsistent with the basic policy objectives of the management of the area, it was eliminated from detailed analysis.

In addition to the Applicant's Proposed Action Alternative, the Draft EIS considers the No Action Alternative, five alternative routes, and one route variation in three Project segments. For this Draft EIS, the No Action Alternative means that the BLM ROW authorization for the Project to cross Federal lands would not be granted and the pipelines and associated facilities would not be constructed.

The BLM, in coordination with the cooperating agencies, developed the Agency Preferred Alternative (APA) through a comparative evaluation of routing opportunities and constraints and relative potential impacts among the various alternative routes. Through a systematic analysis, the alternative routes were compared to determine the most environmentally acceptable routes to be addressed in the EIS and to select the APA on Federal lands. The APA on Federal lands is the alternative route that the BLM, in coordination with the cooperating agencies, believes would fulfill its statutory mission and responsibilities, considering economic, environmental, technical, and other factors.

The APA is a recommendation derived from currently available information and is not a decision. The APA for this Project consists of the following alternative in each segment:

- *Segment 1:* Alternative 1C: Figure Four. This is an alternative to the Alternative 1A: Proposed Action route in the Pinedale and Rock Springs Field Offices and is approximately 38 miles in length. This alternative route follows the same alignment as Alternative 1B: Dry Piney but continues farther south along State Highway 235, cuts east crossing U.S. Highway 189 north of the Town of La Barge, and connects to the proposed Riley Ridge Sweetening Plant. This alternative route follows existing disturbance and is anticipated to minimize potential effects on wildlife more than the other alternative routes being considered in this segment.
- *Segment 2:* Alternative 2A: Proposed Action. This route is approximately 129 miles of 24-inch pipeline, which would transport the CO_2 from the Riley Ridge Sweetening Plant eastward. The route travels east through southern Sublette County crossing into northern Sweetwater County. It continues southeast across Bush Rim and into the Red Desert and then turns northeast until it reaches the Bairoil Interconnect about 50 miles northwest of Rawlins, Wyoming.
- *Segment 3:* Alternative 3B: Lost Creek to Lost Cabin. This is an alternative to the Alternative 3A: Proposed Action route in the Lander Field Office and is approximately 73 miles in length. This alternative heads northeast from the Bairoil Interconnect crossing U.S. Highway 287 and parallels the Proposed Action route until it crosses State Highway 136. The alternative route continues north near Moneta, Wyoming, and ties into the Lost Cabin Interconnect near Lost Cabin, Wyoming. This alternative route was developed to use a utility corridor designated in the Approved RMP for the Lander Field Office and to tie into the Greencore Pipeline at Lost Cabin instead of the Natrona Hub.

The BLM is inviting the public to offer comments on the APA, as well as the other alternative routes and route variations presented in the Draft EIS document.

Ongoing consultations with Native American tribes will continue in accordance with policy, and tribal concerns, including impacts on Indian trust assets, will be given due consideration. Federal, state, and local agencies, along with other stakeholders that may be interested in or affected by the BLM decision on this Project, are invited to participate.

Input is important and will be considered in the environmental analysis process. All comment

submissions must include the commenter's name and street address. Comments, including the names and addresses of the commenter, will be available for public inspection at the locations listed above during normal business hours (7:45 a.m. to 4:30 p.m. Mountain Daylight Time), Monday through Friday, except Federal holidays.

Comments on the Draft EIS may be submitted in writing to the BLM at any public comment meeting or through one of the methods listed in the **ADDRESSES** section. The BLM requests that comments be structured so they are substantive and contain sufficient detail to allow the BLM to address them in the Final EIS. All comments must include a legible full name and address on the envelope, letter, fax, postcard, or email. Copies of the Draft EIS have been sent to affected Federal, State, and local governments; public libraries in the Project area; and interested parties that previously requested a copy.

Before including your address, phone number, email address, or any other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that your personal identifying information be withheld from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Mary Jo Rugwell,

State Director.

[FR Doc. 2018–05858 Filed 3–22–18; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1056]

Certain Collapsible Sockets for Mobile Electronic Devices and Components Thereof; Commission Determination To Review an Initial Determination in Part; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part the presiding administrative law judge's initial determination (Order No. 11) granting summary determination that the defaulting respondents have violated section 337 in the above-captioned investigation. The Commission requests certain briefing from the parties on the issues under review, as indicated in this notice. The Commission also requests briefing from the parties and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 15, 2017, based on a complaint filed on behalf of PopSockets LLC of Boulder, Colorado (''PopSockets'' or ''Complainant''). 82 FR 22348–49 (May 15, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain collapsible sockets for mobile electronic devices and components thereof by reason of infringement of U.S. Patent No. 8,560,031 (''the '031 patent''). *Id.* The notice of investigation named as respondents Agomax Group Ltd. of Kowloon, Hong Kong; Hangzhou Hangkai Technology Co., Ltd. of Zhejiang, China; Yiwu Wentou Import & Export Co., Ltd. of Zhejiang, China; Shenzhen Enruize Technology Co., Ltd. of Shenzhen, China; and Guangzhou Xi Xun Electronics Co., Ltd.; Shenzhen Chuanghui Industry Co., Ltd. of Guangdong, China; Shenzhen VVI Electronic Limited; Shenzhen Yright Technology Co., Ltd.; Shenzhen Kinsen Technology Co., Limited; Shenzhen Showerstar Industrial Co., Ltd.; Shenzhen Lamye Technology Co., Ltd.; Jiangmen Besnovo Electronics Co., Ltd.; Shenzhen Belking Electronic Co., Ltd.; Shenzhen CEX Electronic Co., Limited, all of Guangdong, China. *Id.* The Office of Unfair Import Investigations (''OUII'') also was named as a party in the investigation.

On August 22, 2017, the Commission found the following thirteen respondents in default: Agomax Group Ltd.; Yiwu Wentou Import & Export Co., Ltd.; Hangzhou Hangkai Technology Co., Ltd.; Shenzhen Enruize Technology Co., Ltd.; Guangzhou Xi Xun Electronics Co., Ltd.; Shenzhen VVI Electronic Limited; Shenzhen Yright Technology Co., Ltd.; Shenzhen Kinsen Technology Co., Limited; Shenzhen Showerstar Industrial Co., Ltd.; Shenzhen Lamye Technology Co., Ltd.; Jiangmen Besnovo Electronics Co., Ltd.; Shenzhen Belking Electronic Co., Ltd.; and Shenzhen CEX Electronic Co., Limited (collectively, ''defaulting respondents''). Notice (Aug. 22, 2017) (determining not to review Order No. 9 (Aug. 4, 2017)).

On September 18, 2017, the Commission terminated Shenzhen Chuanghui Industry Co., Ltd. based on withdrawal of the complaint as to that respondent. Notice (Sept. 18, 2017) (determining not to review Order No. 10 (Aug. 28, 2017)).

On August 8, 2017, PopSockets filed a motion for summary determination that (1) the defaulting respondents have sold for importation into the United States, imported into the United States, or sold after importation certain collapsible sockets for mobile electronic devices and components thereof that allegedly infringe certain claims of the '031 patent in violation of section 337; (2) the accused products infringe the asserted claims of the '031 patent; and (3) a domestic industry with respect to the '031 patent exists. The motion also requested a recommendation for entry of a general exclusion order and a bonding requirement pending Presidential review. On August 31, 2017, OUII filed a response supporting the motion in substantial part and supporting the requested remedy of a general exclusion order.

On February 1, 2018, the administrative law judge (''ALJ'') issued an initial determination (''ID'') (Order No. 11), granting PopSockets' motion for summary determination of a section 337 violation. The ID found that the defaulting respondents' accused products infringe one or more of claims 9–12 of the '031 patent, but found no infringement of claims 16 and 17 of the '031 patent. The ID found that the defaulting respondents' accused products have been imported into the United States and that a domestic

industry exists in the United States with respect to the '031 patent. The ALJ also issued a Recommended Determination on Remedy and Bonding, recommending that, if the Commission finds a section 337 violation, the Commission issue a general exclusion order and impose a bond of 100 percent during the period of Presidential review. No petitions for review of the ID were filed.

Having examined the record of this investigation, including the ID, the Commission has determined to review in part the ALJ's determination of a section 337 violation. Specifically, the Commission has determined to review (1) the ID's findings on the technical prong of the domestic industry requirement to correct a typographical error, namely, to modify a citation to ''Mem. Ex. 2 (Kemnitzer Decl.) at ¶ 77 (Infringement Analysis and Chart)'' at page 107 of the ID to ''Mem. Ex. 2 (Kemnitzer Decl.) at ¶ 61 (Analysis and Chart)'' and (2) the ID's findings on the economic prong of the domestic industry requirement. The Commission has determined not to review the remaining issues decided in the ID.

In connection with its review, the Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law and the record.

1. Please describe the nature and significance of PopSockets' alleged domestic industry investments, *i.e.,* in the context of PopSockets' operations, marketplace, or industry, and whether PopSockets' activities have a direct bearing on the practice of the '031 patent. As part of your response, please describe in detail PopSockets' activities in engineering, research, development, operations, marketing, sales, service, and assembly and what amount or portion of the total alleged investment under each of 19 U.S.C. 1337(a)(3)(A), (B), and (C) is allocable to each activity.

2. Please provide a basis for crediting any investments that occurred after the filing date of the complaint towards the domestic industry requirement.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles.

Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994), Comm'n Opinion. In particular, the written submissions should address any request for a cease and desist order in the context of recent Commission opinions, including those in *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor,* Inv. No. 337–TA–977, Comm'n Op. (Apr. 28, 2017) and *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same,* Inv. No. 337–TA–959, Comm'n Op. (Feb. 13, 2017). Specifically, if Complainant seeks a cease and desist order against a defaulting respondent, the written submissions should respond to the following requests:

1. Please identify with citations to the record any information regarding commercially significant inventory in the United States as to each respondent against whom a cease and desist order is sought. If Complainant also relies on other significant domestic operations that could undercut the remedy provided by an exclusion order, please identify with citations to the record such information as to each respondent against whom a cease and desist order is sought.

2. In relation to the infringing products, please identify any information in the record, including allegations in the pleadings, that addresses the existence of any domestic inventory, any domestic operations, or any sales-related activity directed at the United States for each respondent against whom a cease and desist order is sought.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on all of the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant is also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported, and provide identification information for all known importers of the subject articles. Initial written submissions and proposed remedial orders must be filed no later than close of business on Monday, April 2, 2018. Reply submissions must be filed no later than the close of business on Monday, April 9, 2018. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. 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 section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (Inv. No. 337–TA–1056) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (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 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,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 19, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05906 Filed 3–22–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–678–679 and 681–682 (Fourth Review)]

Stainless Steel Bar From Brazil, India, Japan, and Spain; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Kristina Lara ((202) 205–3386), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On October 6, 2017, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (82 FR 48527, October 18, 2017); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on June 21, 2018, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on Thursday, July 12, 2018, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 3, 2018. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on July 6, 2018, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 2, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which

[1] All contract personnel will sign appropriate nondisclosure agreements.

must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 24, 2018. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 24, 2018. On August 15, 2018, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 17, 2018, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 19, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05899 Filed 3–22–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–588 and 731–TA–1392–1393 (Final)]

Polytetrafluoroethylene (PTFE) Resin From China and India, Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of the antidumping and countervailing duty investigation Nos. 701–TA–588 and 731–TA–1392–1393 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of polytetrafluoroethylene (PTFE) resin from China and India, provided for in subheadings 3904.61.00 and 3904.69.50 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized by the government of India. Determinations with respect to imports of PTFE resin alleged to be sold at less-than-fair-value are pending.

DATES: March 8, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) and Robert Casanova (202–708–2719), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.— For purposes of these investigations, Commerce has defined the subject merchandise as polytetrafluoroethylene (PTFE) resin, including but not limited to granular, dispersion, or coagulated dispersion (also known as fine powder). PTFE is covered by the scope of these investigations whether filled or unfilled, whether or not modified, and whether or not containing co-polymer additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for PTFE is C2F4, and the Chemical Abstracts Service Registry number is 9002–84–0.

PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of these investigations.

PTFE is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3904.61.0010 and 3904.61.0090. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000. Although the HTSUS subheadings and CAS Number are provided for convenience and Customs purposes, the written description of the scope is dispositive.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of an affirmative preliminary determination by the Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India of polytetrafluoroethylene (PTFE) resin, and that such products are being subsidized in the United States by the government of India within the meaning of section 703 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on September 28, 2017, by The Chemours Company FC LLC, Wilmington, Delaware.

For further information concerning the conduct of this phase of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the

investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 4, 2018, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, May 17, 2018, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 14, 2018. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on May 15, 2018, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 11, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 24, 2018. In addition, any person who has not entered an appearance as a party to these investigations may submit a written statement of information pertinent to the subject of these investigations, including statements of support or opposition to the petition, on or before May 24, 2018. On June 15, 2018, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 19, 2018, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 20, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05965 Filed 3–22–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Meeting of the NDCAC Executive Advisory Board

AGENCY: Justice Department.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Department of Justice's National Domestic Communications Assistance Center's (NDCAC) Executive Advisory Board (EAB). The meeting is being called to address the items identified in the Agenda detailed below. The NDCAC EAB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA).

DATES: The NDCAC EAB meeting is open to the public, subject to the registration requirements detailed below. The EAB will meet in open session from 12:00 p.m. until 4:00 p.m. on April 11, 2018.

ADDRESSES: The meeting will take place at 5000 Seminary Rd., Alexandria, VA 22311. Entry into the meeting room will begin at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Alice Bardney-Boose, Designated Federal Officer, National Domestic Communications Assistance Center, Department of Justice, by email at *NDCAC@fbi.gov* or by phone at (540) 361–4600.

SUPPLEMENTARY INFORMATION: Agenda: The meeting will be called to order at 12:00 p.m. by EAB Chairman Preston Grubbs. All EAB members will be introduced and EAB Chairman Grubbs will provide remarks. The EAB will receive an updated presentation and hold a discussion on the National Domestic Communications Assistance Center; receive an update on action items identified at the previous meeting; receive a status report from its Administrative and Technology Subcommittees; and receive an overview of a recent EastWest Institute report. *Note:* Agenda items are subject to change. The purpose of the EAB is to provide advice and recommendations to the Attorney General or designee, and to the Director of the NDCAC that promote public safety and national security by advancing the NDCAC's core functions: Law enforcement coordination with respect to technical capabilities and

solutions, technology sharing, industry relations, and implementation of the Communications Assistance for Law Enforcement Act (CALEA). The EAB consists of 15 voting members from Federal, State, local and tribal law enforcement agencies. Additionally, there are two non-voting members as follows: A federally-employed attorney assigned full time to the NDCAC to serve as a legal advisor to the EAB, and the DOJ Chief Privacy Officer or designee to ensure that privacy and civil rights and civil liberties issues are fully considered in the EAB's recommendations. The EAB is composed of eight State, local, and/or tribal representatives and seven federal representatives.

Written Comments: Any member of the public may submit written comments to the EAB. Written comments must be provided to Ms. Alice Bardney-Boose, DFO, at least seven (7) days in advance of the meeting so that the comments may be made available to EAB members for their consideration prior to the meeting. Written comments must be submitted to *NDCAC@fbi.gov* on or before April 4, 2018. In accordance with the FACA, all comments shall be made available for public inspection. Commenters are not required to submit personally identifiable information (such as name, address, etc.). Nevertheless, if commenters submit personally identifiable information as part of the comments, but do not want it made available for public inspection, the phrase ''Personally Identifiable Information'' must be included in the first paragraph of the comment. Commenters must place all personally identifiable information not to be made available for public inspection in the first paragraph and identify what information is to be redacted. Privacy Act Statement: Comments are being collected pursuant to the FACA. Any personally identifiable information included voluntarily within comments, without a request for redaction, will be used for the limited purpose of making all documents available to the public pursuant to FACA requirements.

Registration: Individuals and entities who wish to attend the public meeting are required to pre-register for the meeting on-line by clicking the registration link found at: *http://ndcac-eab.eventbee.com.* Registrations will be accepted on a space available basis. Attendees must bring registration confirmation (*i.e.,* email confirmation) to be admitted to the meeting. Privacy Act Statement: The information requested on the registration form and required at the meeting is being collected and used pursuant to the FACA for the limited purpose of ensuring accurate records of all persons present at the meeting, and these records may be made publicly available. Providing information for registration purposes is voluntary; however, failure to provide the required information for registration purposes will prevent you from attending the meeting.

Online registration for the meeting must be completed on or before 5:00 p.m. (EST) April 4, 2018. Anyone requiring special accommodations should notify Ms. Bardney-Boose at least seven (7) days in advance of the meeting or indicate your requirements on the online registration form.

Alice Bardney-Boose,

Designated Federal Officer, National Domestic Communication Assistance Center, Executive Advisory Board.

[FR Doc. 2018–05968 Filed 3–22–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0045]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of Currently Approved Collection Customer Satisfaction Assessment Survey

AGENCY: Federal Bureau of Investigation Laboratory, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Laboratory Division (LD) has submitted the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional days until April 23, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Robin Ruth, Quality Manager, Federal Bureau of Investigation Laboratory, 2501 Investigation Parkway, Quantico, Virginia, 22135.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1 *Type of Information Collection:* Extension of a currently approved collection.

2 *The Title of the Form/Collection:* Customer Satisfaction Assessment.

3 *The agency form number:* FD–1000.

4 *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents primarily include federal, state, and local law enforcement. Respondents also include the intelligence community, Department of Defense, and international police agencies personnel and/or crime laboratory personnel. This collection is a brief questionnaire regarding customers' satisfaction with the services provided by the Federal Bureau of Investigation Laboratory. This collection is needed to evaluate the quality of services provided by the Federal Bureau of Investigation Laboratory. The Federal Bureau of Investigation Laboratory is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) which recently merged with the ANSI–ASQ National Accreditation Board (ANAB). A requirement for maintaining accreditation is to evaluate the level of service provided by the Federal Bureau of Investigation Laboratory to our customers. To meet this requirement the

Federal Bureau of Investigation Laboratory is requesting its customers to complete and return the *Customer Satisfaction Assessment.*

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1,000 respondents will complete the Customer Satisfaction Assessment survey in 2018. This estimate is based on the number of respondents in prior years of this collection. It is estimated that respondents will need 5 minutes to complete a questionnaire.

6 *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 84 hours. It is estimated that respondents will need 5 minutes to complete a questionnaire. The burden hours for collecting respondent data sum to approximately 84 hours (1000 respondents × 5 minutes = 83.33 hours).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 20, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–05918 Filed 3–22–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Compensation Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''National Compensation Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201712-1220-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the National Compensation Survey (NCS). Under the NCS, the BLS conducts ongoing surveys of compensation and job characteristics. Data collected by the NCS are used to produce Employment Cost Trends, including the Employment Cost Index and Employer Costs for Employee Compensation, employee benefits data, and data used by the President's Pay Agent. This information collection has been classified as a revision, because the BLS is implementing a sample design change. The BLS is also removing subsidized commuting and stock options from the ''Other Benefits'' collection and adding student loan repayments and flexible work schedules to it. The Ethics Reform Act of 1989, the Federal Employees Pay Comparability Act of 1990, and the BLS Authorizing Statute authorize this information collection. *See* 2 U.S.C. 4501; 5 U.S.C. 5304(d)(1)(A), 5 U.S.C. 5318(a); and 29 U.S.C. 2b.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0164. The current approval is scheduled to expire on April 30, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 21, 2017 (82 FR 55399).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0164. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: National Compensation Survey.

OMB Control Number: 1220–0164.

Affected Public: State, Local, and Tribal Governments; and Private sector—businesses and other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 15,863.

Total Estimated Number of Responses: 50,092.

Total Estimated Annual Time Burden: 44,222 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 16, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–05896 Filed 3–22–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Training Plan Regulations and Certificate of Training

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Training Plan Regulations and Certificate of Training,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201708-1219-004* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Training Plan Regulations and Certificate of Training information collection requirements codified at regulations 30 CFR 48.3, 48.9, 48.23, and 48.29. Federal Mine Safety and Health Act (Mine Act) section 115(a) states, ''each operator of a coal or other mine shall have a health and safety training program which shall be approved by the Secretary.'' The MSHA requires training plans to be submitted for approval to the MSHA District Manager for the area in which the mine is located. Plans must contain the company name, mine name, and MSHA identification number of the mine; the name and position of the person designated by the operator who is responsible for health and safety training at the mine; a list of MSHA-approved instructors with whom the operator proposes to make arrangements to teach the courses and the courses each instructor is qualified to teach; the location where training will be given for each course; a description of teaching methods and course materials to be used in training; the approximate number of miners employed at the mine and the maximum number who will attend each training session; the predicted time or periods of time when regularly scheduled refresher training will be given including the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each training session; and for new task training, a complete list of task assignments, the titles of personnel conducting the training, the outline of training procedures used, and the evaluation procedures used to determine the effectiveness of the training. Upon completion of each training program, the mine operator certifies on Form MSHA 5000–23, Certificate of Training, that the miner has received the specified training in each subject area of the approved health and safety training plan. The Certificate of Training forms are to be maintained by the operator for a period of two years for current employees and for sixty (60) days after termination of a miner's employment, and must be available for inspection at the mine site. In addition, the miner is entitled to a copy of the certificate upon completion of the training and when he/she leaves the operator's employment. Mine Act sections 101 and 103 authorize this information collection. *See* 30 U.S.C. 811, 813.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

The DOL obtains OMB approval for this information collection under Control Number 1219–0009, and the agency seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 3, 2017 (82 FR 46091).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0009. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Training Plan Regulations and Certificate of Training.

OMB Control Number: 1219–0009.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,526.

Total Estimated Number of Responses: 123,186.

Total Estimated Annual Time Burden: 13,964 hours.

Total Estimated Annual Other Costs Burden: $371,118.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–05924 Filed 3–22–18; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Consent To Receive Employee Benefit Plan Disclosures Electronically

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Consent to Receive Employee Benefit Plan Disclosures Electronically,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201801-1210-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Consent to Receive Employee Benefit Plan Disclosures Electronically information collection requirements codified in regulations at 29 CFR 2520.104b-1 and 2520.107–1, which govern the use of electronic technologies to satisfy information disclosure and recordkeeping requirements under Employee Retirement Income Security Act of 1974 (ERISA) Title I. Generally, consent is required to be obtained prior to providing disclosures electronically to participants and beneficiaries at a location other than the workplace. ERISA section 104(b) authorizes this information collection. *See* 29 U.S.C. 1024(b).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0121.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on March 31, 2018. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 12, 2017 (82 FR 47581).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0121. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Consent to Receive Employee Benefit Plan Disclosures Electronically.

OMB Control Number: 1210–0121.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 47,302.

Total Estimated Number of Responses: 4,792,744.

Total Estimated Annual Time Burden: 19,709 hours.

Total Estimated Annual Other Costs Burden: $239,637.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 16, 2018.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–05897 Filed 3–22–18; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (18–024)]

Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee (APAC). This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, April 11, 2018, 9:30 a.m.–5:00 p.m.; and Thursday, April 12, 2018, 8:30 a.m.–5:00 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room MIC 3H42, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free conference call number 1–800–475–0361 or toll number 1–312–470–7233, passcode 4604167, to participate in this meeting by telephone on both days. The WebEx link is *https://nasa.webex.com/;* the meeting number on April 11 is 999 423 343, password is APAC@0418; and the meeting number on April 12 is 990 476 056, password is APAC@0418.

The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Updates on Specific Astrophysics Missions
—Reports from the Program Analysis Groups
—Reports from Specific Research and Analysis Programs
—Discussion of NASA's FY 2019 Budget Request

The agenda will be posted on the Astrophysics Advisory committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days in advance by contacting Ms. KarShelia Henderson via email at *khenderson@nasa.gov* or by fax at (202) 358–2779.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–05963 Filed 3–22–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (18–023)]

Heliophysics Advisory Committee; Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Advisory Committee (HPAC). This Committee functions in an advisory capacity to the Director, Heliophysics Division, in the NASA Science Mission Directorate. The meeting will be held for the purpose of soliciting, from the science community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, April 5, 2018, 9:00 a.m. to 5:00 p.m., and Friday, April 6, 2018, 9:00 a.m. to 2:00 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 3H42, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate (SMD), NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and via WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free conference call number (800) 619–8535 or toll number 1–773–756–4600, passcode 6050395, on both days, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number on April 5 is 994 967 904 and the password is HPACMTG1! (case sensitive); the meeting number on April 6 is 995 738 795 and the password is HPACMTG1! (case sensitive).

The agenda for the meeting includes the following topics:

- Heliophysics Division News and Updates
- Development of Response to Research and Analysis Charge from the Science Mission Directorate
- Strategic Planning in Heliophysics Division
- Frontier Development Labs
- Status of the Space Weather Effort
- Status of Diversify, Realize, Integrate, Venture and Educate Initiative (DRIVE) Centers Solicitation
- Status of Lunar Orbiting Platform—Gateway

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days in advance

by contacting Ms. KarShelia Henderson via email at *khenderson@nasa.gov* or by fax at (202) 358–2779.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–05962 Filed 3–22–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 23, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Suite 5060, Alexandria, VA 22314, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0199.

Title: Capital Planning and Stress Testing, 12 CFR part 702, subpart E.

Abstract: To protect the National Credit Union Share Insurance Fund (NCUSIF) and the credit union system, the largest Federally Insured Credit Unions (FICUs) must have systems and processes to monitor and maintain their capital adequacy. This rule requires FICUs with assets of $10 billion or more (covered credit unions) to develop, maintain, and submit a capital plan annually. NCUA took into account the risk to the NCUSIF of the largest FICUs as it considered the need for capital plans at these institutions. The size of these institutions relative to the NCUSIF makes capital planning essential.

Type of Review: Extension of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 2,250.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on March 20, 2018.

Dated: March 20, 2018.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2018–05929 Filed 3–22–18; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Joint Standards for Assessing the Diversity Policies and Practices

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the revision of an existing collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before May 22, 2018 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314; Fax No. 703–519–8579; or Email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above or Dawn Wolfgang at 703–548–2279.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0193.

Title: Joint Standards for Assessing the Diversity Policies and Practices.

Abstract: Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Act) required the NCUA, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Bureau of Consumer Financial Protection (CFPB), and Securities and Exchange Commission (SEC) (Agencies) each to establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities. The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the Agency. The Agencies worked together to develop joint standards and, on June 10, 2015, they jointly published in the **Federal Register** the ''Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies.''

Type of Review: Revision of a currently approved collection.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 325.

Estimated Annual Frequency: 1.

Estimated Annual Number of Responses: 325.

Estimated Burden Hours per Response: 10.

Estimated Total Annual Burden Hours: 3,250.

Reason for Change: The NCUA had received OMB approval for the use of the ''Voluntary Credit Union Self-Assessment Checklist'' to provide a user-friendly tool to assess credit unions diversity policies and practices. The NCUA is revising this checklist at this time to:

1. Provide space for the user to identify the credit union's Diversity and Inclusion Officer and Supplier Diversity Officer or equivalents. This information will help gauge the formality of the credit union's diversity and inclusion program and provide direct contact information with individuals holding these positions.

2. Remove the option for a credit union to answer in the negative; only affirmative responses are requested and removing the requirement to provide a comment if the respondent answers a question in the affirmative.

3. Converts the Self-Assessment standards from a question format to a statement format.

4. Provides space for the user to document their definition of diversity if it is broader than just minorities and women as referenced in the joint standards. Collection of this information will allow the NCUA to better

understand how credit unions are defining diversity.

5. Include a table to capture the workforce profile. The table provides space for users to provide a breakdown of their workforce by gender and minority status.

6. Include a table to capture total annual procurement spend with minority and women-owned businesses. This data will help us gauge the amount of spending credit unions are doing with minority- and women-owned businesses.

The NCUA estimates that the average response time per respondent is 10 hours. At the time of the approval of the original collection, the Agencies joint estimate of the time per response per respondent was 12 hours. NCUA has re-evaluated its estimates and has determined that the burden on the credit union will be reduced by the redesign of the form.

An adjustment in the number of respondents is being made to reflect reduction in the number of credit unions reporting.

Request for Comments: Comments submitted in response 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. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on March 20, 2018.

Dated: March 20, 2018.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2018–05928 Filed 3–22–18; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on April 5–7, 2018, 11545 Rockville Pike, Rockville, Maryland 20852.

Thursday, April 5, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–8:35 a.m.—Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:45 a.m.—Preparation for Commission Meeting (Open)—The Committee will prepare for meeting with the Commission.

10:00 a.m.–12:00 p.m.—Meeting with the Commission (Open)—The Committee will have a discussion with the Commission of mutual topics. This is a Commission meeting taking place in the Commission Hearing Room in the One White Flint North building.

1:30 p.m.–3:30 p.m.—Advanced Reactor Functional Containment SECY Paper (Open)—The Committee will hear briefings by and discussion with representatives of the NRC staff regarding the subject SECY paper.

3:45 p.m.–5:15 p.m.—WCAP–17938–P, Revision 2, ''AP1000 In-Containment Cables and Non-Metallic Insulation Debris Integrated Assessment'' (Open/Closed)—The Committee will hear briefings by and discussion with representatives of the NRC staff and Westinghouse regarding the subject topical report. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

5:15 p.m.–6:00 p.m.—Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

Friday, April 6, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–10:00 a.m.—Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [**NOTE:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

10:00 a.m.–12:00 p.m.—Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

1:30 p.m.–6:00 p.m.—Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and potential retreat items. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)] [NOTE: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

Saturday, April 7, 2018, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–12:00 p.m.—Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and potential retreat items. [**NOTE:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)] [**NOTE:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements

should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html or http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–6702), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, this 19th day of March 2018.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Advisory Committee Management Officer.

[FR Doc. 2018–05945 Filed 3–22–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82899; File No. SR–NYSEArca–2018–15]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Regarding Investments of the PGIM Ultra Short Bond ETF, a Series of PGIM ETF Trust Under NYSE Arca Rule 8.600–E

March 19, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 6, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes certain changes regarding investments of the PGIM Ultra Short Bond ETF (the ''Fund''), a series of PGIM ETF Trust (the ''Trust''), under NYSE Arca Rule 8.600–E (''Managed Fund Shares''). The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes certain changes, described below under ''Application of Generic Listing Requirements'', regarding investments of the Fund. The shares (''Shares'') of the Fund will be listed and traded on the Exchange under Commentary .01 to NYSE Arca Rule 8.600–E, which provides generic criteria applicable to the listing and trading of Managed Fund Shares.[4] PGIM Investments LLC (the ''Adviser'') will be the investment adviser for the Fund. PGIM Fixed Income (the ''Subadviser''), a unit of PGIM, Inc., will be the subadviser to the Fund. PIMS, the Adviser and the Subadviser are indirect wholly-owned subsidiaries of Prudential Financial, Inc. Brown Brothers Harriman & Co., which is unaffiliated with PIMS, the Adviser and the Subadviser, will serve as the custodian, administrator, and transfer agent (''Transfer Agent'') for the Fund.[5] Prudential Investment Management Services LLC (''PIMS''), a registered broker-dealer, will act as the distributor (the ''Distributor'') for the Fund's Shares.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] The Trust is registered under the 1940 Act. On January 8, 2018, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–222469 and 811–23324) (''Registration Statement''). The Trust will file an amendment to the Registration Statement as necessary to conform to the representations in this filing. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the1940 Act. *See* Investment Company Act Release No. 31095 (June 24, 2014) (File No. 812–14267).

shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Commentary .06 to Rule 8.600–E is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .06 in connection with the establishment and maintenance of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.

The Adviser and the Subadviser are not registered as broker-dealers but are affiliated with PIMS, a broker-dealer, and have implemented and will maintain a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or the Subadviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a ''fire wall'' with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures, each designed to prevent the use and dissemination of material non-public information regarding such portfolio.

PGIM Ultra Short Bond ETF

Principal Investments

According to the Registration Statement, the investment objective of the Fund will be to seek to provide total return through a combination of current income and capital appreciation, consistent with preservation of capital. The Fund will seek to achieve its investment objective by investing primarily in a portfolio of U.S. dollar denominated short-term fixed, variable and floating rate debt instruments. Under normal market conditions,[6] the Fund will invest at least 80% of its net assets (plus any borrowings for investment purposes) in a portfolio of financial instruments consisting of (i) the Principal Investment Instruments (defined below) and (ii) derivatives [7] that (A) provide exposure to such Principal Investment Instruments, or (B) are used to enhance returns, manage portfolio duration, or manage the risk of securities price fluctuations, as further described below (together, the ''Principal Investments'').

The Fund may invest in ''Principal Investment Instruments'' consisting of the following instruments (each of which shall be denominated in U.S. dollars):

- U.S. Government securities, including bills, notes, bonds and other obligations issued or guaranteed by the U.S. Government, the U.S. Treasury or other agencies and instrumentalities of the U.S. Government, including inflation-indexed bonds issued by the U.S. Government, Treasury Inflation-Protected Securities (''TIPS''), and Separate Trading of Registered Interest and Principal of Securities (''STRIPS'');
- U.S. and non-U.S. corporate debt securities, including corporate bonds, debentures, notes, and other similar corporate debt instruments;
- U.S. and non-U.S. bank obligations, including certificates of deposit, bankers' acceptances, fixed time deposits and Eurodollar obligations;
- bills, notes, bonds and other obligations of foreign governments or supranational entities or their subdivisions, agencies, and instrumentalities;
- Asset-backed securities (''ABS''), including mortgage-backed securities (''MBS''); [8]
- debt securities issued by states or local governments and their agencies, authorities and other government-sponsored enterprises;
- loans (secured or unsecured) arranged through private negotiations between a U.S. or non-U.S. company as the borrower and one or more financial institutions as lenders, which investments can be in the form of loan participations or assignments;
- funding agreements;
- shares of ''Money Market Funds''; [9]
- shares of the Prudential Core Ultra Short Bond Fund [10] or, if the Prudential Core Ultra Short Bond Fund is no longer offered with the same investment objective, shares of any successor fund or other affiliated open-end investment company registered under the 1940 Act with a substantially similar investment objective (the ''Affiliated Short Term Bond Fund''); [11]
- commercial paper issued by U.S. and non-U.S. companies; and
- credit-linked securities and structured notes issued by U.S. or non-U.S. issuers that reference debt or fixed income securities or derivatives referencing debt or fixed income securities; and
- cash and cash equivalents.[12]

The Fund may, without limitation, enter into repurchase arrangements, purchase and sale contracts and buybacks and dollar rolls and short sales. The Fund may also purchase securities and other instruments under when-issued, delayed delivery, to be announced or forward commitment transactions, where the securities or instruments will not be delivered or paid for immediately. To the extent required under applicable federal

[6] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5). In response to adverse market, economic or political conditions, the Fund may take a temporary defensive position and invest up to 100% of its assets in cash and money market instruments, which include shares of Money Market Funds (defined below), shares of the Affiliated Short Term Bond Fund (defined below), short-term obligations of, or securities guaranteed by, the U.S. Government, its agencies or instrumentalities, high-quality obligations of U.S. or foreign banks and corporations, or any other securities or instruments.

[7] The Fund's investments in derivatives will include investments in both listed derivatives and over-the-counter (''OTC'') derivatives, as those terms are defined in Commentary .01(d) and (e) to NYSE Arca Rule 8.600–E.

[8] The ABS (including MBS) in which the Fund will invest include both (i) ABS (including MBS) issued by the U.S. Government, an agency of the U.S. Government, or a government sponsored entity (''GSE'') and (ii) non-U.S. Government, non-agency, non-GSE and other privately issued ABS (including MBS) (''Private ABS/MBS''), provided that, as discussed below, the Fund will not invest more than 20% of the Fund's total assets in Private ABS/MBS.

[9] ''Money Market Funds'' include money market funds registered under the 1940 Act and money market funds that are not registered under the 1940 Act but that comply with Rule 2a–7 under the 1940 Act.

[10] The Prudential Core Ultra Short Bond Fund is a series of Prudential Investment Portfolios 2, which is an open-end investment company registered under the 1940 Act. The Fund's Subadviser is also the subadviser to the Affiliated Short Term Bond Fund. The investment objective of the Prudential Core Ultra Short Bond Fund is to seek current income consistent with the preservation of capital and the maintenance of liquidity. Like Rule 2a–7 money market funds that are defined as cash equivalents pursuant to Commentary .01(c) to Rule 8.600–E, the Prudential Core Ultra Short Bond Fund invests primarily in money market obligations as defined by Rule 2a–7. Rule 2a–7 defines money market obligations as obligations that mature in 397 days or less. Additionally, the Prudential Core Ultra Short Bond Fund seeks investments that are expected to experience minimal fluctuations in value.

[11] The Fund's investment in the Affiliated Short Term Bond Fund is described further in ''Application of Generic Listing Requirements,'' *infra.*

[12] For purposes of this filing, the term ''cash equivalents'' includes the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E. Under normal market conditions, the Fund may invest a significant portion of its assets in cash and cash equivalents.

securities laws (including the 1940 Act), rules, and interpretations thereof, the Fund will ''set aside'' liquid assets or engage in other measures to ''cover'' open positions held in connection with the foregoing types of transactions, as well as derivative transactions.

The Fund may invest in derivatives to (i) provide exposure to the Principal Investment Instruments and (ii) enhance returns, manage portfolio duration, or (iii) manage the risk of securities price fluctuations. Derivatives that the Fund may enter into include: Over-the-counter deliverable and non-deliverable foreign exchange forward contracts; listed futures contracts on securities (including Treasury Securities and foreign government securities), indices, interest rates, financial rates and currencies; listed or OTC options (including puts or calls) or swaptions (*i.e.,* options to enter into a swap) on securities, indices, interest rates, financial rates, currencies and futures contracts; and listed or OTC swaps (including total return swaps) on securities, indices, interest rates, financial rates, currencies and debt and credit default swaps on single names, baskets and indices (both as protection seller and as protection buyer).

Other Investments

While the Fund, under normal market conditions, invests at least 80% of its investable assets in the Principal Investments described above, the Fund may invest its remaining assets in the following ''Non-Principal Investments'':

- exchange-traded funds (''ETFs'') that provide exposure to the Principal Investment Instruments; [13]
- convertible securities; [14] and
- securities and other instruments that would otherwise qualify as Principal Investment Instruments but for being denominated in non-U.S. currency.

Use of Derivatives by the Fund

The Fund may invest in the types of derivatives described in the ''Principal Investments'' section above to (i) provide exposure to the Principal Investment Instruments [15] and (ii) enhance returns, manage portfolio duration, or (iii) manage the risk of securities price fluctuations. Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies.

To limit the potential risk associated with such transactions, the Fund will enter into offsetting transactions or segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the ''Board'') and in accordance with the 1940 Act or as permitted by applicable Commission guidance. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.

Net Asset Value and Derivatives Valuation Methodology for Purposes of Determining Net Asset Value

The net asset value (''NAV'') of the Shares of the Fund is determined once each day the New York Stock Exchange (the ''NYSE'') is open, as of the close of its regular trading session (normally 4:00 p.m., Eastern Time (''E.T.'')). The per Share NAV of the Fund will be computed by dividing the net assets by the number of the Fund's Shares outstanding.

Impact on Arbitrage Mechanism

The Adviser and the Subadviser believe there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund's use of derivatives. The Adviser and the Subadviser understand that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser and the Subadviser believe that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their NAV, which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

Creation and Redemption of Shares

The Fund will issue and sell its Shares only in aggregations of at least 25,000 Shares (each aggregation is called a ''Creation Unit'') on a continuous basis through PIMS at the NAV next determined after receipt of an order in proper form on any Business Day.[16]

The consideration for a purchase of Creation Units generally will consist of a cash deposit but may include the in-kind deposit of a portfolio of securities and other investments (the ''Deposit Instruments'') included in the Fund and an amount of cash computed as described below (the ''Cash Amount''). The Cash Amount together with the Deposit Instruments, as applicable, are referred to as the ''Portfolio Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Cash Amount would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which is an amount equal to the aggregate market value of the Deposit Instruments, and serves to compensate for any differences between the NAV per Creation Unit and the Deposit Amount.

The Transfer Agent, through the National Securities Clearing Corporation (''NSCC''), makes available on each Business Day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.), the list of the names and the required number of securities for each Deposit Instrument to be included in the current Portfolio Deposit (based on information at the end of the previous Business Day), as well as information regarding the Cash Amount for the Fund. Such Portfolio Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available.

All orders to create Creation Units generally must be received by the Distributor no later than the closing time of the regular trading session on the Exchange (''Closing Time'') (ordinarily 4:00 p.m. E.T.) on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

[13] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Rule 5.2(j)(3)–E), Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E), and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs in which the Fund will invest will be listed and traded on national securities exchanges.

[14] Convertible securities entitle the holder to receive interest payments paid on corporate debt securities or the dividend preference on a preferred stock until such time as the convertible security matures or is redeemed or until the holder elects to exercise the conversion privilege.

[15] Because the markets for the Principal Investment Instruments, or the Principal Investment Instruments themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure to Principal Investment Instruments.

[16] A ''Business Day'' with respect to the Fund is any day on which the Exchange is open for business.

In addition, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Instruments or to permit the substitution of an amount of cash (*i.e.,* a ''cash in lieu'' amount) to be added to the Cash Amount to replace any Deposit Instrument which may, among other reasons, not be available in sufficient quantity for delivery, not be permitted to be re-registered in the name of the Trust as a result of an in-kind creation order pursuant to local law or market convention or which may not be eligible for transfer through the Clearing Process (defined below), or which may not be eligible for trading by a Participating Party (defined below).

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an entity or person either must be (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC (the ''Clearing Process''); or (2) a DTC Participant; which, in either case, must have executed an agreement with the Distributor (as it may be amended from time to time in accordance with its terms) (''Participant Agreement''). A Participating Party and DTC Participant are collectively referred to as an ''Authorized Participant.''

A standard creation transaction fee is imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by PIMS, only on a Business Day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. The Trust will not redeem Shares in amounts less than Creation Units. Beneficial owners also may sell Shares in the secondary market, but must accumulate enough Shares to constitute a Creation Unit in order to have such Shares redeemed by the Trust.

The Transfer Agent, through NSCC, makes available immediately prior to the opening of business on the Exchange on each Business Day, the identity of the Fund's securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. The Fund's securities received on redemption (''Redemption Instruments'') may not be identical to Deposit Instruments that are applicable to creations of Creation Units. Unless cash redemptions are permitted or required for the Fund, the redemption proceeds for a Creation Unit generally consist of Redemption Instruments as announced by the Transfer Agent on the Business Day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Redemption Instruments, less the fixed transaction fee and any variable transaction fees.

In order to redeem Creation Units of the Fund, an Authorized Participant must submit an order to redeem for one or more Creation Units. An order to redeem Creation Units of a Fund using the Clearing Process generally must be submitted to the Distributor not later than 4:00 p.m. E.T. on the Business Day of the request for redemption in order for such order to be effected based on the NAV of the Fund as next determined. An order to redeem Creation Units of the Fund using the NSCC Clearing Process made in proper form but received by the Fund after 4:00 p.m. E.T. will be deemed received on the next Business Day immediately following the day on which such order request is transmitted.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the changes described below would result in the portfolio for the Fund not meeting all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio would meet all such requirements except for those set forth in Commentary .01(b)(5) [17] and Commentary .01(c).[18] Specifically, the Exchange proposes that:

- The Fund will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.,* Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, the Exchange proposes that Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.
- The Fund will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4).[19] Instead, the Exchange proposes that fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund.
- The Fund may invest in shares of the Affiliated Short Term Bond Fund, which are equity securities. Therefore, to the extent the Fund invests in the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) with respect to its equity securities holdings. Instead, the Exchange proposes that such securities not be required to meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E.

Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

As noted above, the Fund will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.,* Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, the

[17] Commentary .01(b)(5) to NYSE Arca Rule 8.600–E provides that non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities components of a portfolio may not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

[18] Commentary .01(c) to NYSE Arca Rule 8.600–E provides that a fund may invest without limit in cash equivalents which include, among other investments, money market funds. Non-money market mutual funds are not included in the definition, and are not otherwise permitted as investments under Commentary .01.

[19] Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

Exchange proposes that Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.

The Exchange believes that this alternative requirement is appropriate because the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities. The Fund's investment in Private ABS/MBS will be subject to the Fund's liquidity procedures as adopted by the Board, and the Adviser does not expect that investments in Private ABS/MBS of up to 20% of the total assets of the Fund will have any material impact on the liquidity of the Fund's investments. The Exchange notes that the Commission has previously approved the listing of actively managed ETFs that can invest 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued ABS and MBS (*i.e.,* Private ABS/MBS).[20] Thus, the Exchange believes that it is appropriate to expand the limit on the Fund's investments in Private ABS/MBS set forth in Commentary .01(b)(5) of the generic listing standards.

The Fund will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4).[21] Instead, the Exchange proposes that fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund. The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria set forth in Commentary .01(b)(4).[22] Thus, the Exchange believes that it is appropriate to expand the limit on investments in fixed income securities that do not satisfy the criteria in Commentary .01(b)(4) of the generic listing standards, as described above.

The Fund may invest in shares of the Affiliated Short Term Bond Fund, which are equity securities. Therefore, to the extent the Fund invests in the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) with respect to its equity securities holdings. The Exchange believes, however, that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E.[23] Investments in the Affiliated Short Term Bond Fund and other non-exchange-traded open-end management investment company securities will not exceed 25% of the total assets of the Fund. The Fund's investment in the Affiliated Short Term Bond Fund will be utilized in order to obtain income on short-term cash balances while awaiting attractive investment opportunities, to provide liquidity in preparation for anticipated redemptions or for defensive purposes, which will allow the Fund to obtain the benefits of a more diversified portfolio available in the Affiliated Short Term Bond Fund than might otherwise be available through direct investments in Money Market Funds.[24]

Moreover, such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder.[25]

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[20] *See, e.g.,* Securities Exchange Act Release Nos. 80946 (June 15, 2017) 82 FR 28126 (June 20, 2017) (SR–NASDAQ–2017–039) (permitting the Guggenheim Limited Duration ETF to invest up to 20% of its total assets in privately-issued, non-agency and non-GSE ABS and MBS); 76412 (November 10, 2015), 80 FR 71880 (November 17, 2015) (SR–NYSEArca–2015–111) (permitting the RiverFront Strategic Income Fund to invest up to 20% of its assets in privately-issued, non-agency and non-GSE ABS and MBS); 74814 (April 27, 2015), 80 FR 24986 (May 1, 2015) (SR–NYSEArca–2014–017) (permitting the Guggenheim Enhanced Short Duration ETF to invest up to 20% of its assets in privately-issued, non-agency and non-GSE ABS and MBS); 74109 (January 21, 2015), 80 FR 4327 (January 27, 2015) (SR–NYSEArca–2014–134) (permitting the IQ Wilshire Alternative Strategies ETF to invest up to 20% of its total assets in MSB and other ABS, without any limit on the type of such MBS and ABS).

[21] Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[22] *See, e.g.,* Exchange Act Release Nos. 67894 (September 20, 2012) 77 FR 59227 (September 26, 2012) (SR–BATS–2012–033) (order approving the listing and trading of shares of the iShares Short Maturity Bond Fund); 70342 (September 6, 2013), 78 FR 56256 (September 12, 2013) (SR–NYSEArca–2013–71) (order approving the listing and trading of shares of the SPDR SSgA Ultra Short Term Bond ETF, SPDR SSgA Conservative Ultra Short Term Bond ETF and SPDR SSgA Aggressive Ultra Short Term Bond ETF).

[23] Commentary .01(a) to Rule 8.600–E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S. Component Stocks (as described in Rule 5.2–E(j)(3)) and Non-U.S. Component Stocks (as described in Rule 5.2–E(j)(3)). Commentary .01(a)(1) to Rule 8.600–E (U.S. Component Stocks) provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis: (A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least $75 million; (B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; (C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio; (D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and (E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934.

[24] For purposes of this section of the filing, non-exchange-traded securities of other registered investment companies do not include money market funds, which are cash equivalents under Commentary .01(c) to Rule 8.600–E and for which there is no limitation in the percentage of the portfolio invested in such securities. In addition, the Commission has issued orders granting exemptive relief under the 1940 Act that apply to the Trust. *See* Investment Company Act Release No. 24179 (December 1, 1999) (File No. 812–11354) with respect to investments by a fund in money market or ultra-short bond funds for cash management purposes) and Investment Company Act Release No. 30200 (September 11, 2012) (File No. 812–13993) with respect to investments by a fund in other registered investment companies.

[25] The Commission has previously approved proposed rule changes under Section 19(b) of the Act for series of Managed Fund Shares that may invest in non-exchange traded investment company

Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that Commentary .01(a)(1)(A) through (D) to Rule 8.600–E exclude certain ''Derivative Securities Products'' that are exchange-traded investment company securities, including Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E)) and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E)).[26] In its 2008 Approval Order approving amendments to Commentary .01(a) to Rule 5.2(j)(3) to exclude Derivative Securities Products from certain provisions of Commentary .01(a) (which exclusions are similar to those in Commentary .01(a)(1) to Rule 8.600–E), the Commission stated that ''based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations.'' The Exchange notes that it would be difficult or impossible to apply to mutual fund shares certain of the generic quantitative criteria (*e.g.,* market capitalization, trading volume, or portfolio criteria) in Commentary .01 (A) through (D) applicable to U.S. Component Stocks. For example, the requirements for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months are tailored to exchange-traded securities (*i.e.,* U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. In addition, Commentary .01(a)(1)(A) relating to minimum market value of portfolio component stocks, Commentary .01(a)(1)(C) relating to weighting of portfolio component stocks, and Commentary .01(a)(1)(D) relating to minimum number of portfolio components are not appropriately applied to open-end management investment company securities; open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act, and application of Commentary .01(A) through (D) would not serve the purposes served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies where such funds were permitted to invest in the shares of other registered investment companies that are not ETFs or money market funds.[27] Thus, the Exchange believes that it is appropriate to permit the Fund to invest up to 25% of its total assets in the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities.

The Exchange accordingly believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1), (b)(4) and (b)(5) to Rule 8.600–E. The Exchange notes that, other than Commentary .01(b)(4) and (b)(5) to Rule 8.600–E, the Fund's portfolio will meet all other requirements of Rule 8.600.

Availability of Information

The Fund's website (*www.pgiminvestments.com*) will include the prospectus for the Fund that may be downloaded. The Fund's website will include additional quantitative information updated on a daily basis including, for the Fund, (1) daily trading volume, the prior Business Day's reported closing price, NAV and midpoint of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[28] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each Business Day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600–E(c)(2) that forms the basis for the Fund's calculation of NAV at the end of the Business Day.[29]

On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. Authorized Participants may refer to the basket composition file

securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder. *See, e.g.,* Securities Exchange Act Release No. 78414 (July 26, 2016), 81 FR 50576 (August 1, 2016) (SR–NYSEArca–2016–79) (order approving listing and trading of shares of the Virtus Japan Alpha ETF under NYSE Arca Rule 8.600–E).

[26] The Commission initially approved the Exchange's proposed rule change to exclude ''Derivative Securities Products'' (*i.e.,* Investment Company Units and securities described in Section 2 of Rule 8) and ''Index-Linked Securities (as described in Rule 5.2–E(j)(6)) from Commentary .01(a)(A)(1) through (4) to Rule 5.2–E(j)(3) in Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units) (''2008 Approval Order''). *See also* Securities Exchange Act Release No. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units). The Commission subsequently approved generic criteria applicable to listing and trading of Managed Fund Shares, including exclusions for Derivative Securities Products and Index-Linked Securities in Commentary .01(a)(1)(A) through (D), in Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 7 Thereto, Amending NYSE Arca Rule 8.600–E To Adopt Generic Listing Standards for Managed Fund Shares). *See also* Amendment No. 7 to SR–NYSEArca–2015–110, available at *https://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-9.pdf.*

[27] *See, e.g.,* Exchange Act Release Nos. 79053 (October 5, 2016), 81 FR 70468 (October 12, 2016) (SR–BatsBZX–2016–35) (permitting the JPMorgan Global Bond Opportunities ETF to invest in ''investment company securities that are not ETFs''); 74297 (February 18, 2015), 80 FR 9788 (February 24, 2015) (SR–BATS–2014–056) (permitting the U.S. Fixed Income Balanced Risk ETF to invest in ''exchange traded and non-exchange traded investment companies (including investment companies advised by the Adviser or its affiliates) that invest in such Fixed Income Securities'').

[28] The Bid/Ask Price of the Fund's Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[29] Under accounting procedures followed by the Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

for information regarding Fixed Income Instruments, and any other instrument that may comprise the Fund's basket on a given day.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Fund's Forms N–CSR and Forms N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR, Form N–PX and Form N–SAR may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

Intra-day and closing price information regarding exchange-traded options will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding the Principal Investment Instruments also will be available from major market data vendors. Price information relating to OTC options and swaps will be available from major market data vendors. Intra-day price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. For exchange-listed securities (including ETFs), intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Intraday and other price information for the fixed income securities in which the Fund will invest will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other market participants. Additionally, the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'') will be a source of price information for corporate bonds, privately-issued securities, MBS and ABS, to the extent transactions in such securities are reported to TRACE.[30] Money market funds and the Affiliated Short Term Bond Fund are typically priced once each Business Day and their prices will be available through the applicable fund's website or from major market data vendors. Electronic Municipal Market Access (''EMMA'') will be a source of price information for municipal bonds. Price information regarding U.S. government securities, repurchase agreements, reverse repurchase agreements and cash equivalents generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation (''OCC'') are available via the Options Price Reporting Authority (''OPRA''). In addition, the Portfolio Indicative Value ('' PIV''), as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

With the exception of the requirements of Commentary .01(b)(5) and Commentary .01(c) as described above under ''Application of Generic Listing Requirements'', the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. The Exchange represents that for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange has obtained a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will

[30] Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For fixed income securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

communicate as needed regarding trading in the Shares, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, certain exchange-traded options and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded options and certain futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA''). The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board (''MSRB'') relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m)–E.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Adviser and Subadviser are not registered as broker-dealers, but the Adviser and Subadviser are affiliated with a broker-dealer and have implemented and will maintain a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, certain exchange-traded options and certain futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded options and certain futures with other markets and other entities that are members of the ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange is able to access from FINRA, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB relating to certain municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The website for the Fund includes a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which trading in the Shares of the Fund may be halted. In addition, as noted above, investors have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. In the aggregate, at least 90% of the weight of the Fund's holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a CSSA. For purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives.

As described above, deviations from the generic requirements of Commentary .01(a) are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

As discussed above, the Fund will not comply with the requirement in Commentary .01(b)(5) that investments in non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities (*i.e.,* Private ABS/MBS) not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Instead, the Exchange proposes that Private ABS/MBS will, in the aggregate, not exceed more than 20% of the total assets of the Fund.

The Exchange believes that this alternative requirement is appropriate because the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities. The

Fund's investment in Private ABS/MBS will be subject to the Fund's liquidity procedures as adopted by the Board, and the Adviser does not expect that investments in Private ABS/MBS of up to 20% of the total assets of the Fund will have any material impact on the liquidity of the Fund's investments. The Exchange notes that the Commission has previously approved the listing of actively managed ETFs that can invest 20% of their total assets in non-U.S. Government, non-agency, non-GSE and other privately issued ABS and MBS (*i.e.,* Private ABS/MBS).[31] Thus, the Exchange believes that it is appropriate to expand the limit on the Fund's investments in Private ABS/MBS set forth in Commentary .01(b)(5) of the generic listing standards.

The Fund will not comply with the requirement that securities that in aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria in Commentary .01(b)(4). Instead, the Exchange proposes that fixed income securities that do not meet any of the criteria in Commentary .01(b)(4) will not exceed 10% of the total assets of the Fund. The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds' securities meet one of the criteria set forth in Commentary .01(b)(4). Thus, the Exchange believes that it is appropriate to expand the limit on investments in fixed income securities that do not satisfy the criteria in Commentary .01(b)(4) of the generic listing standards, as described above.

The Fund may invest in shares of the Affiliated Short Term Bond Fund, which are equity securities. Therefore, to the extent the Fund invests in the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) with respect to its equity securities holdings. The Exchange believes, however, that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E. The Fund's investment in the Affiliated Short Term Bond Fund or other non-exchange-traded open-end management investment company securities will not exceed 25% of the total assets of the Fund. The Fund's investment in the Affiliated Short Term Bond Fund will be utilized in order to obtain income on short-term cash balances while awaiting attractive investment opportunities, to provide liquidity in preparation for anticipated redemptions or for defensive purposes, which will allow the Fund to obtain the benefits of a more diversified portfolio available in the Affiliated Short Term Bond Fund than might otherwise be available through direct investments in Money Market Funds. Moreover, such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder. Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that it would be difficult or impossible to apply to mutual fund shares certain of the generic quantitative criteria (*e.g.,* market capitalization, trading volume, or portfolio criteria) in Commentary .01 (A) through (D) applicable to U.S. Component Stocks. For example, the requirements for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months are tailored to exchange-traded securities (*i.e.,* U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. In addition, Commentary .01(a)(1)(A) relating to minimum market value of portfolio component stocks, Commentary .01(a)(1)(C) relating to weighting of portfolio component stocks, and Commentary .01(a)(1)(D) relating to minimum number of portfolio components are not appropriately applied to open-end management investment company securities; open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act, and application of Commentary .01(A) through (D) would not serve the purposes served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively managed ETF that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively managed ETF that principally holds fixed income securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were 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 within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

[31] *See* note 18, *supra.*

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2018–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2018–15. 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–2018–15, and should be submitted on or before April 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82901; File Nos. SR–LCH SA–2017–012 and SR–LCH SA–2017–013]

Self-Regulatory Organizations; LCH SA; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes Related to LCH SA's Recovery and Wind Down Plans

March 19, 2018.

I. Introduction

On November 30, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change (LCH SA–2017–012) to adopt a recovery plan (the ''RP''). The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.[3] On December 7, 2017, LCH SA filed with the Commission a proposed rule change (LCH SA–2017–013) to adopt a wind down plan (''WDP'').[4] The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.[5] On January 23, 2018, the Commission designated a longer period for Commission action on both proposed rule changes.[6] To date, the Commission has not received any comments on the proposed rule changes. The Commission is publishing this order to institute proceedings pursuant to Section 19(b)(2)(B)[7] of the Act to determine whether to approve or disapprove the proposed rule changes.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule changes, nor does it mean that the Commission will ultimately disapprove the proposed rule changes. Rather, as discussed below, the Commission seeks additional input on the proposed rule changes and issues presented by the proposed rule changes.

II. Description of the Proposed Rule Changes[8]

As a ''covered clearing agency,''[9] LCH SA is required to, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.''[10] The Commission has previously clarified that it believes that such recovery and wind-down plans are ''rules'' within the meaning of Exchange Act section 19(b) and Rule 19b–4 because such plans would constitute changes to a stated policy, practice or interpretation of a covered clearing agency.[11] Accordingly, a covered clearing agency, such as LCH SA, must file its RP and WDP with the Commission.

A. The RP (LCH SA–2017–012)

The Commission has previously explained that the term ''recovery'' refers to action taken to allow a financial company that is non-viable as a going concern or insolvent to sustain its critical operations and services.[12] To that end, LCH SA's RP seeks to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA from such stress. In particular, the RP describes (i) the scenarios and triggers for initiating recovery measures; (ii) various recovery tools used in such recovery; and (iii) the governance framework for managing the

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–82316 (Dec. 13, 2017), 82 FR 60246 (Dec. 19, 2017) (SR–LCH–SA–2017–012) (''Notice 012'').

[4] Capitalized terms used in this order but not defined herein have the same meanings specified in LCH SA's rules.

[5] Securities Exchange Act Release No. 34–82317 (Dec. 13, 2017), 82 FR 60238 (Dec. 19, 2017) (SR–LCH SA–2017–013) (''Notice 013'').

[6] Securities Exchange Act Release No. 34–82570 (Jan. 23, 2018), 83 FR 4088 (Jan. 29, 2018) and Securities Exchange Act Release No. 34–82571 (Jan. 23, 2018), 83 FR 4081 (Jan. 29, 2018).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] The descriptions of the proposed rule changes are substantially excerpted from Notice 012 and Notice 013.

[9] The term ''covered clearing agency'' is defined in SEC Rule 17Ad–22(a)(5), 17 CFR 240.17Ad–22(a)(5).

[10] 17 CFR 240.17Ad–22(e)(3)(ii).

[11] Standards for Covered Clearing Agencies, Securities Exchange Act Release No. 34–78961 (Sep. 28, 2016), 81 FR 70786, 70809 (Oct. 13, 2016).

[12] *Id.* at 70808, n. 251.

RP. Each of those aspects of the RP are discussed in more detail below.

The scenarios that could necessitate the implementation of the RP include the default of one or more clearing members, liquidity shortfalls as a result of the default of an investment counterparty of LCH SA or any other investment losses resulting from changes in the market value on the investments, a loss resulting from an event which impacts the critical services provided by LCH SA (*e.g.,* failure in the provision of service by a third party), loss of critical contracts with exchanges, or the operational or financial failure of a financial market infrastructure such as an allied clearing house or trade repository.[13]

The default management process is used to re-establish a matched book and return to business as usual and therefore LCH SA considers it to be a recovery tool.[14] When pre-funded resources, such as defaulter's margin, defaulter's default fund contributions, LCH SA's capital, and non-defaulters' default fund contributions, are no longer available to meet obligations due to member and non-member losses, the RP lists various measures or tools that LCH SA can use to return to business as usual.[15] The RP is organized to discuss each tool by the nature of the loss (*e.g.,* clearing member default losses, liquidity shortfalls, operational, business, and investment risks). The RP also discusses the sequence in which these tools would be used and the relative strength of each.[16]

When pre-funded resources have been exhausted after a clearing member default, LCH SA can call a default fund assessment up to a cap, request voluntary payments from all non-defaulting members, and effectuate service closure.[17] In the event such tools are unavailable certain other business as usual tools, such as default fund additional margin, may enable LCH SA to collect additional resources.

In the event of a liquidity shortfall, LCH SA may use its central bank credit line to deposit securities received on behalf of defaulting clearing members and obtain liquidity.[18] Other potential tools to manage a liquidity stress situation are limits with respect to illiquid collateral, the application of increased haircuts on certain types of collateral to incentivize the use of more liquid collateral, or specific liquidity margins.[19] LCH SA could also defer funding for the settlement platform for a limited period of time but views this as a tool of last resort.[20]

For most investment, business, and operational losses, LCH SA can allocate its capital surplus against losses.[21] Further down the list of preferable recovery tools for non-clearing member defaults are the abilities to raise capital or utilize insurance meant to cover a specific operational risk event.[22] For any disruption or loss of key third-party service provider, LCH SA would be able to exercise several contractual rights and maintains exit plans which are intended to safeguard the continuity of services.[23]

The RP discusses the governance surrounding its creation, invocation, and operation.[24] LCH SA relies upon its existing governance forums for both the creation and on-going monitoring and operation of the RP. Specifically, the LCH SA Management Committee is responsible for the preparation of the RP and the monitoring and implementation of the recovery tools set forth in the RP.[25] The LCH SA Risk Committee reviews and makes a recommendation to the Board, who ultimately has the power to approve the RP.[26] However, before submission to the LCH SA Risk Committee, the RP is reviewed and validated by the Executive Risk Committee of LCH Group.[27]

The Default Management Group is responsible for the management of clearing member defaults while all critical decisions are escalated and submitted to the LCH SA Default Crisis Management Team (''DCMT'').[28] The triggering of recovery measures is subject to discussion in the DCMT and approval by the LCH SA CEO.[29]

The management of non-clearing member events will vary based on the nature of the event.[30] For example, investment losses and liquidity shortfalls are managed by the departments responsible for controlling such risks within the parameters set by the Board.[31] Similarly, operational risks are managed by each business line in accordance with the operational risk policy approved by the Board.[32] Business risk is managed by individual business lines, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available for the applicable business risks.[33] Matters are escalated to the Management Committee when the RP is triggered and the LCH SA Board will approve implementation of the RP.[34]

B. The WDP (LCH SA–2017–013)

In the event a recovery is not successful, LCH SA would invoke its WDP to wind down its operations to full service closure in an orderly manner, thereby minimizing the disruption to clearing members, market participants, and the broader financial system. The WDP would be triggered after a determination by the LCH SA Board that all the recovery tools have been exhausted and have failed to return LCH SA to business as usual.[35] A voluntary wind-down not precipitated by these extreme events would not be considered.[36] The WDP would set forth clear mechanisms for the transfer of LCH SA's membership and business, and would be designed to facilitate continued access to critical services and to minimize market impact.[37]

The decision to wind down would be taken by the Board and ultimately the shareholders' meeting, upon advice of the Executive Risk Committee and Local Management Committee (''LMC'').[38] The implementation of the WDP would be monitored by the LCH SA LMC or Default Crisis Management Team, the executive committee in charge of the coordination of defaults.[39] All relevant regulatory authorities would be consulted before such a decision is taken, and the French *Autorité de Contrôle Prudentiel et de Resolution* would have to approve such a decision, unless all clearing services have already been closed.[40] These authorities would then be kept regularly informed of the plan's implementation.[41] Any decision to wind-down while in resolution would be taken by the relevant governing resolution authority.[42]

The WDP assumes that LCH SA's businesses would be wound down until full closure and that the closure of

[13] *See* Notice 012, 82 FR at 60247.
[14] *Id.*
[15] *Id.*
[16] *Id.* at 60249–60250.
[17] *Id.* at 60249.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *See* Notice 012, 82 FR at 60249.
[23] *Id.* at 60250.
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] Notice 013, 82 FR at 60239.
[36] *Id.*
[37] *Id.* at 60239–60240.
[38] *Id.* at 60239.
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.*

various business lines could occur at different times, with some business functions significantly scaled down or even closed by the time the decision to wind-down is officially made.[43] The WDP also states that LCH SA would publish written notice to the clearing members that a wind-down event has occurred and potential dates by which transactions will no longer be accepted for clearing.[44] In a non-default situation or in a situation where the corresponding business line is still active, LCH SA would attempt to give clearing members the maximum time necessary to clear transactions in the normal course, close-out positions, and switch to another central counterparty.[45]

The WDP also provides detail about the closure of supporting functions. For instance, the treasury function would close once all clearing services have ceased and monies are paid by LCH SA and its members.[46] Any other supporting operational, information technology, or risk functions would be kept active until all positions are closed.[47] Further, once the WDP is implemented, LCH SA would deposit remaining cash in central bank accounts or invest the cash in instruments with maturities no longer than same-day repos.[48] The WDP further notes that LCH SA's contractual agreements with third-party service providers, such as information technology or venue providers, contain wind-down provisions that permit LCH SA to exit the agreements under particular conditions.[49] Finally, the WDP provides citations to its various clearing services' rule book provisions giving a legal basis for the actions taken to effectuate the plan.[50]

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Changes and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule changes should be approved or disapproved.[51] Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule changes. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule changes and provide arguments to support the Commission's analysis as to whether to approve or disapprove the proposals.

Pursuant to Section 19(b)(2)(B) of the Act,[52] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from, commenters with respect to the proposed rule changes' consistency with the Act[53] and the rules thereunder, including the following provisions:

- Section 17A(b)(3)(F) of the Act, which requires that the rules of a clearing agency be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible;[54]
- Rule 17Ad–22(e)(2) under the Act, which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants;[55]
- Rule 17Ad–22(e)(3)(ii) under the Act, which requires that covered clearing agencies, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses;'' and
- Rules 17Ad–22(e)(15)(i)–(ii),[56] which require LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to determine the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken and to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for holding liquid net assets funded by equity equal to the greater of either six months of its current operating expenses or the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the plans established under Rule 17Ad–22(e)(3)(ii).[57]

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues raised by the proposed rule changes. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule changes are inconsistent with Section 17A(b)(3)(F) of the Act[58] and Rules 17Ad–22(e)(2),[59] 17Ad–22(e)(3)(ii),[60] and 17Ad–22(e)(15)(i)–(ii),[61] under the Act, or any other provision of the Act or rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[62]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule changes should be approved or disapproved on or before April 13, 2018. Any person who wishes to file a rebuttal to any other person's

[43] *Id.*

[44] *Id.* at 60239–60240.

[45] *Id.* at 60240.

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] 15 U.S.C. 78s(b)(2)(B) (providing that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension).

[52] 15 U.S.C. 78s(b)(2)(B).

[53] 15 U.S.C. 78q–1.

[54] 15 U.S.C. 78q–1(b)(3)(F).

[55] 17 CFR 240.17Ad–22(e)(2).

[56] 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

[57] 17 CFR 240.17Ad–22(e)(3)(ii).

[58] 15 U.S.C. 78q–1(b)(3)(F).

[59] 17 CFR 240.17Ad–22(e)(2).

[60] 17 CFR 240.17Ad–22(e)(3)(ii).

[61] 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

[62] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

submission must file that rebuttal on or before April 27, 2018. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LCH SA–2017–012 and SR–LCH SA–2017–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to SR–LCH SA–2017–012 and SR–LCH SA–2017–013. These file numbers 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 submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 filings also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at *http://www.lch.com/asset-classes/cdsclear.* 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–LCH SA–2017–012 and SR–LCH SA–2017–013 and should be submitted on or before April 13, 2018. If comments are received, any rebuttal comments should be submitted on or before April 27, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[63]

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82900; File No. SR–PEARL–2018–09]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

March 19, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 8, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule''). The Exchange initially filed the proposal on February 28, 2018 (SR–PEARL–2018–06). That filing was withdrawn and replaced with the current filing (SR–PEARL–2018–09).

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to decrease the ''Taker'' fees in Tiers 4, 5 and 6 assessable to all orders submitted by a Market Maker[3] for options in Penny classes (as defined below).

The Exchange currently assesses tiered transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[4] on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts[5]) expressed as a percentage of TCV.[6] In addition, the per contract

[63] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of Exchange Rules. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[6] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[7] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[8] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are generally assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program[9] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''Non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates.

Transaction rebates and fees applicable to orders submitted by a Market Maker are currently assessed according to the following table:

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes		Per contract rebates/fees for non-penny classes	
			Maker	Taker	Maker	Taker
All MIAX PEARL Market Makers.	1	0.00%–0.05%	($0.25)	$0.50	($0.30)	$1.05
	2	Above 0.05%–0.25%	(0.40)	0.50	(0.30)	1.05
	3	Above 0.25%–0.50%	(0.40)	0.48	(0.60)	1.03
	4	Above 0.50%–0.75% or Above 2.0% in SPY.	(0.47)	0.47	(0.65)	1.02
	5	Above 0.75%–1.00%	(0.48)	0.47	(0.70)	1.02
	6	Above 1.00%	(0.48)	0.47	(0.85)	1.02

The Exchange proposes to decrease the Taker fees for Market Maker orders for options in Penny classes in Tiers 4, 5 and 6 from $0.47 to $0.43. The purpose of decreasing the Taker fees for Market Maker orders for options in Penny classes to $0.43 in those Tiers is for business and competitive reasons to encourage Market Makers to execute greater volume on the Exchange, by offering lower rates in the higher Tiers. The Exchange believes that reducing the Taker fees for Market Maker orders for options in Penny classes to $0.43 per contract fee in those Tiers will incentivize Market Makers to execute more volume on the Exchange due to favorable pricing for this liquidity type in the higher Tiers. There are no other changes proposed to the fee table.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(4) of the Act,[11] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[12] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed Taker fee decreases in Penny classes applicable to orders submitted by a Market Maker are reasonable, equitable and not unfairly discriminatory because all Market Maker orders are subject to the same Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange initially set its Taker fees at the various volume levels based upon business determinations and an analysis of current Taker fees and volume levels at other exchanges. For competitive and business reasons, the Exchange believes that lower Taker fees assessable to Market Maker transactions in Penny classes in Tiers 4, 5 and 6 will encourage Market Makers to execute more volume in Penny classes in order to achieve the higher Tiers since they will be assessed reduced fees in Tiers 4, 5 and 6 for orders in options in Penny classes which remove liquidity. The Exchange believes for these reasons that offering the reduced Taker fees for Market Maker transactions in Penny classes in Tiers 4, 5 and 6 is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

The Exchange believes that its proposal to reduce Taker fees assessable to transactions in options in Penny classes and not to reduce Taker fees for transactions in options in Non-Penny classes is consistent with other options markets that also assess different transaction fees for options in Non-Penny classes as compared to Penny classes. The Exchange believes that establishing different pricing for options in Non-Penny classes and Penny classes is reasonable, equitable, and not unfairly discriminatory because options in Penny classes are generally more liquid as compared to Non-Penny classes. Additionally, other competing options exchanges differentiate pricing in a similar manner today.[13]

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Market Maker orders than to orders submitted by all other market participants who are not Priority

[7] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 79778 (January 12, 2017), 82 FR 6662 (January 19, 2017) (SR–PEARL–2016–01).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f(b)(1) and (b)(5).

[13] *See* NASDAQ PHLX LLC Pricing Schedule, Section II; NYSE American Options Fee Schedule, p. 7; Cboe Exchange, Inc. Fee Schedule, p. 1. *See also* Securities Exchange Act Release No. 68556 (January 2, 2013), 78 FR 1293 (January 8, 2013) (SR–BX–2012–074).

Customers. Market Makers are assessed lower transaction fees as compared to Non-MIAX Market Makers, Non-Member Broker-Dealers, and Firms because they have market-making obligations and regulatory requirements, which normally do not apply to those market participants that are not Market Makers.[14] Market Makers additionally have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings.

Furthermore, the proposed decrease to the Taker fees in Penny classes for Market Makers in Tiers 4, 5 and 6 promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest because the proposed decrease in the fees will encourage Market Makers to send more orders to the Exchange since they will be assessed a reduced Taker fee in Tiers 4, 5 and 6. To the extent that Market Maker order flow in Penny classes is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL 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 proposed Taker fee decreases are intended to encourage executing more volume on the Exchange. The decrease in the Taker fee for Market Makers should enable the Exchange to attract and compete for order flow with other exchanges which assess higher Taker fees thereby adding liquidity. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive.

In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to send order flow to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[15] and Rule 19b–4(f)(2)[16] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2018–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2018–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2018–09 and should be submitted on or before April 13, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05901 Filed 3–22–18; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* Exchange Rules 603 and 604.

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10366]

E.O. 13224 Designation of Joe Asperman, 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 Joe Asperman, 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**.

Rex Tillerson,

Secretary of State.

[FR Doc. 2018–05969 Filed 3–22–18; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Detroit Metropolitan Wayne County Airport, Detroit, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 5.61 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Detroit Metropolitan Wayne County Airport, Detroit, MI. The aforementioned land is not needed for aeronautical use.

The property is located across a public road and to the northwest of the Detroit Metropolitan Wayne County Airport. It is currently vacant unimproved land that was acquired to support the Vining road relocation necessary for the construction of Runway 4L/22R at the airport. The property proposed for release was acquired by the Wayne County Airport Authority under FAA Grant Numbers 3–26–0026–1991, 3–26–0026–2292, 3–26–0026–3695, 3–26–0026–4197, and 3–26–0026–4398. There is now a buyer for the entire 5.61 acre parcel. The land is no longer needed for aeronautical purposes. The proposed non-aeronautical land use would be for compatible commercial/industrial development. The property has been appraised and the airport will receive Fair Market Value for the land to be sold.

DATES: Comments must be received on or before April 23, 2018.

ADDRESSES: Documents are available for review by appointment at the FAA Detroit Airports District Office, Alex Erskine, Program Manager, 11677 South Wayne Road, Suite 107, Romulus, MI 48174. Telephone: (734) 229–2927/Fax: (734) 229–2950 and Wayne County Airport Authority Administrative Offices, 11050 Rogell Dr. #602, Detroit, MI, Attn. Ms. Wendy Sutton. Telephone: (734) 247–7233.

Written comments on the Sponsor's request must be delivered or mailed to: Alex Erskine, Program Manager, Federal Aviation Administration, Airports Detroit District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174, Telephone Number: (734) 229–2915/FAX Number: (734) 229–2950.

FOR FURTHER INFORMATION CONTACT: Alex Erskine, Program Manager, Federal Aviation Administration, Airports Detroit District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174, Telephone Number: (734) 229–2927/FAX Number:(734) 229–2950.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property is currently vacant, unimproved land maintained for compatible land use surrounding the airfield. The proposed non-aeronautical land use would be for compatible commercial/industrial development, allowing the airport to become more self-sustaining. The property has a proposed developer identified and it has been appraised. The airport will receive Fair Market Value for the land to be sold.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Detroit Metropolitan Wayne County Airport, Detroit, MI, from its obligations to be maintained for aeronautical purposes. Approval does not constitute a commitment by the FAA to financially assist in the change in use of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Property Description

PART OF LOTS 1, 2 AND 3 OF ''GRANT ACRES SUBDIVISION OF PART OF THE S.E. ¼ OF THE N.W. ¼ OF SEC. 21, T. 3 S., R. 9 E.'' AS RECORDED IN LIBER 69 OF PLATS ON PAGE 23, WAYNE COUNTY RECORDS AND PART OF THE NORTHWEST ¼ OF SECTION 21, T. 3 S., R. 9 E., ALL BEING LOCATED IN THE CITY OF ROMULUS, WAYNE COUNTY, MICHIGAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTER CORNER OF SECTION 21, T. 3 S., R. 9 E., CITY OF ROMULUS, WAYNE COUNTY, MICHIGAN AND RUNNING THENCE SOUTH 88 DEGREES 47 MINUTES 04 SECONDS WEST, ALONG THE EAST—WEST ¼ LINE OF SAID SECTION 21, SAID LINE BEING ALSO THE SOUTH LINE OF SAID ''GRANT ACRE SUBDIVISION'' (L69, PLATS, P. 23, W.C.R.), A DISTANCE OF 1290.61 FEET TO THE SOUTHWEST CORNER OF SAID SUBDIVISION; THENCE NORTH 01 DEGREE 43 MINUTES 29 SECONDS WEST, ALONG THE WEST LINE OF SAID SUBDIVISION, SAID LINE BEING ALSO THE WEST LINE OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21, A DISTANCE OF 90.43 FEET TO THE POINT OF INTERSECTION OF SAID LINE WITH THE WESTERLY LINE OF RELOCATED VINING ROAD (120 FEET WIDE), SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN BEING DESCRIBED; PROCEEDING THENCE FROM SAID POINT OF BEGINNING NORTH 01 DEGREE 43 MINUTES 29 SECONDS WEST. ALONG THE WEST LINE OF SAID SUBDIVISION, SAID LINE BEING ALSO PART OF THE WEST LINE OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21, A DISTANCE OF 920.34 FEET TO A POINT; THENCE NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, ALONG THE SOUTH LINE OF PROPERTY AS DESCRIBED IN LIBER 26432 OF DEEDS ON PAGE 520, WAYNE COUNTY RECORDS, A DISTANCE OF 531.24 FEET TO A POINT ON THE WESTERLY LINE OF SAID RELOCATED VINING ROAD; THENCE SOUTH 28 DEGREES 28 MINUTES 47 SECONDS WEST, ALONG THE WESTERLY LINE OF SAID RELOCATED VINING ROAD. A DISTANCE OF 1055.85 FEET TO THE POINT OF BEGINNING. CONTAINING 5.611 ACRES, MORE OR LESS, OF LAND IN AREA

Issued in Romulus, Michigan on March 6, 2018.

Stephanie R. Swann,

Acting Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2018–05972 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Fort Wayne International Airport, Fort Wayne, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 70 acres of airport land from aeronautical use to non-aeronautical use of airport property located at Fort Wayne International, Fort Wayne, IN. The aforementioned land is not needed for aeronautical use.

Fort Wayne International Airport (FWA) proposes to release approximately 70 acres of land located on the northwest corner of existing airport property. The land is located to the southwest of the intersection of Smith Road and the Airport Expressway. The land to be released is comprised of Tract 5 and Tract 6 as described in the survey. The land is owned by the Fort Wayne-Allen County Airport Authority (FWACAA). The property was originally purchased for the purpose of economic development and to enable the Authority to ensure airport compatible development. The Sponsor is proposing to release and ultimately sell or lease these parcels per local zoning regulations. The proposed future use of the land will be for compatible commercial or industrial developments. The sale of these parcels would allow the Sponsor to further financially support airfield improvement projects. Of the tracts proposed for release, none were acquired with FAA Funding.

DATES: Comments must be received on or before April 23, 2018.

ADDRESSES: Documents are available for review by appointment at the FAA Chicago Airports District Office, Rob Esquivel, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone: (847) 294–7340/Fax: (847) 294–7046 and Fort Wayne Allen County Airport Authority, 3801 W. Ferguson Rd., Ste. 209, Fort Wayne, IN 46809, Telephone: (260) 446–3428.

Written comments on the Sponsor's request must be delivered or mailed to: Rob Esquivel, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon, Ste. 312, Des Plaines, IL 60018, Telephone: (847) 294–7340/Fax: (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Rob Esquivel, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon, Ste. 312, Des Plaines, IL 60018, Telephone: (847) 294–7340/Fax: (847) 294–7046.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The land is owned by the Fort Wayne-Allen County Airport Authority (FWACAA). The property was originally purchased for the purpose of economic development and to enable the Authority to ensure airport compatible development. The Sponsor is proposing to release and ultimately sell or lease these parcels per local zoning regulations. The proposed future use of the land will be for compatible commercial or industrial developments.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Fort Wayne International Airport, Fort Wayne, IN from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description: Tract 5—66.008 Acres

Part of the Fractional Northeast Quarter and Southeast Quarter of Section 6, Township 29 North, Range 12 East of the Second Principal Meridian, Pleasant Township in Allen County, Indiana, more particularly described as follows:

Commencing at a 5⁄8″ steel bar marking the Northwest corner of said Northeast Quarter; thence South 00 degrees 47 minutes 23 seconds East (GPS Grid bearing and basis of bearings to follow), a distance of 1,929.38 feet along the West line of said Northeast Quarter to a 5⁄8″ steel rebar with a ''Miller Firm #0095'' identification cap set on the South right-of-way line of Airport Expressway, said point being the POINT OF BEGINNING of the herein described tract; thence North 88 degrees 37 minutes 26 seconds East, a distance of 178.59 feet along said right-of-way line; thence South 89 degrees 33 minutes 41 seconds East, a distance of 180.08 feet along said right-of-way line; thence Northeasterly along a on tangent curve, concave to the Northwest, having a radius of 1,747.02 feet, a central angle of 26 degrees 15 minutes 00 seconds, and a chord of 793.41 feet bearing North 69 degrees 35 minutes 07 seconds East to a 5⁄8″ steel rebar with a ''Miller Firm #0095'' identification cap set on the Southwesterly right-of-way line of Smith Road; thence South 52 degrees 12 minutes 02 seconds East, a distance of 68.61 feet along said right-of-way line; thence South 43 degrees 27 minutes 45 seconds East, a distance of 460.00 feet (deed); thence South 42 degrees 38 minutes 39 seconds East, a distance of 350.04 feet (deed) along said right-of-way line; thence South 45 degrees 32 minutes 42 seconds East, a distance of 550.36 feet (deed) along said right-of-way line; thence South 43 degrees 27 minutes 45 seconds East, a distance of 392.14 feet (deed) along said right-of-way line; thence South 35 degrees 45 minutes 29 seconds East, a distance of 116.60 feet (deed) along said right-of-way line to a point, said point being referenced by a 1⁄2″ steel rebar found 0.24 feet East; thence South 88 degrees 46 minutes 59 seconds West, a distance of 517.79 feet to a 1⁄2″ steel rebar; thence South 00 degrees 53 minutes 54 seconds East, a distance of 289.82 feet to a 1⁄2″ steel rebar found on the South line of the North Half of said Southeast Quarter; thence South 88 degrees 48 minutes 05 seconds West, a distance of 1,907.86 feet along said South line to a 5⁄8″ steel rebar with a ''Miller Film #0095'' identification cap set on the West line of said Southeast Quarter; thence North 00 degrees 47 minutes 23 seconds West, a distance of 1,311.74 feet along said West line to a stone found at the center of said Section 6; thence North 00 degrees 47 minutes 23 seconds West, a distance of 147.52 feet along the West line of said Northeast Quarter to the Point of Beginning. Containing 66.008 Acres, more or less. Subject to easements of record.

Legal Description: Tract 6—3.997 Acres

Part of the Southeast Quarter of Section 6, Township 29 North, Range 12 East of the Second Principal Meridian, Pleasant Township in Allen County, Indiana, more particularly described as follows:

Commencing at a 5⁄8″ steel bar marking the Northwest corner of said Northeast Quarter; thence South 00 degrees 47 minutes 23 seconds East (GPS Grid bearing and basis of bearings

to follow), a distance of 3,388.65 feet along the West line of the Northeast Quarter of said Section 6 and along the West line of said Southeast Quarter to a 5⁄8″ steel rebar with a ''Miller Firm #0095'' identification cap set on the South line of the North Half of said Southeast Quarter; thence North 88 degrees 48 minutes 05 seconds East, a distance of 1,907.86 feet along said South line to a ½″ steel rebar set at the POINT OF BEGINNING of the herein described tract; thence North 00 degrees 53 minutes 54 seconds West, a distance of 289.82 feet to a ½″ steel rebar; thence North 88 degrees 46 minutes 59 seconds East, a distance of 517.79 feet to a point on the Southwesterly right-of-way line of Smith Road, said point being referenced by a ½″ steel rebar found 0.24 feed East; thence South 35 degrees 45 minutes 29 seconds East, a distance of 77.34 feet (deed) along said right-of-way line; thence South 28 degrees 02 minutes 01 seconds East, a distance of 187.36 feet (deed) along said right-of-way line; thence South 14 degrees 30 minutes 02 seconds East, a distance of 60.74 feet along said right-of-way line to a ½′ steel rebar found on the South line of the North Half of said Southeast Quarter; thence South 88 degrees 47 minutes 52 seconds West, a distance of 661.74 feet along said South line to the Point of Beginning. Containing 3.997 Acres, more or less. Subject to easements of record.

Issued in Des Plaines, IL, on March 15, 2018.

Deb Bartell,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2018–05888 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2018–19]

Petition for Exemption; Summary of Petition Received; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 12, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0186 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Michael Harrison, AIR–673, Federal Aviation Administration, 2200 S 216th Street, Des Moines, WA 98198, phone 206–231–3368, email *michael.harrison@faa.gov;* or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, phone 202–267–4713, email *Alphonso.Pendergrass@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Des Moines, Washington, on March 19, 2018.

Victor Wicklund,

Manager, Transport Standards Branch.

Petition for Exemption

Docket No.: FAA–2018–0186.
Petitioner: The Boeing Company.
Section(s) of 14 CFR Affected: § 25.939(a).
Description of Relief Sought: Petitioner is seeking a time limited exemption and relief from 14 CFR 25.939(a) for the Boeing Model 787–10. Section 25.939(a) states turbine engine operating characteristics must be investigated in flight to determine that no adverse characteristics (such as stall, surge, or flameout) are present, to a hazardous degree, during normal and emergency operation within the range of operating limitations of the airplane and of the engine. Specifically, petitioner requests relief from the requirement that turbine engines must be free of adverse operating characteristics during normal and emergency operation within the airplane envelope while operating in ice crystal icing conditions.

[FR Doc. 2018–05910 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0104, Notice 3]

Decision That Nonconforming Model Year 2013–2014 Ferrari F12 Berlinetta Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration that certain Model Year (MY) 2013–2014 Ferrari F12 Berlinetta passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the MY 2013–2014 Ferrari F12 Berlinetta PC), and they are capable of being readily altered to conform to the standards.

DATES: This decision became effective on March 20, 2018.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–5308.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified as required under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition received, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments submitted, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc., of Santa Ana, California (''G&K'') (Registered Importer# RI–90–007), petitioned NHTSA to decide whether certain MY 2013–2014 Ferrari F12 Berlinetta PCs are eligible for importation into the United States. NHTSA published a notice of the petition on December 7, 2016 (81 FR 88318) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

Comments

On February 6, 2017, Ferrari North America (FNA), the vehicle's original manufacturer, submitted comments to the petition docket. In their comments, Ferrari stated that while they agreed that the U.S. and the non-U.S. versions of the vehicle are ''substantially similar'' within the meaning of section 30141(a)(1)(A)(i), they strongly disputed G&K's assertions that the non-U.S. version could be readily altered to comply with all applicable FMVSS. FNA elaborated by presenting detailed reasons for their assertions with respect to specific FMVSS. G&K responded to FNA's comments by reiterating their belief that the subject non-U.S.-conforming vehicles can be readily modified to meet all applicable FMVSS and that they have the experience and technical knowledge to perform the necessary modifications to conform the vehicles and remedy necessary recalls.

A summary of FNA's comments, G&K's responses to FNA's comments, and the conclusions that NHTSA has reached regarding the issues raised by the parties is set forth below.

Review of Comments and Conclusions

NHTSA has reviewed the petition, FNA's comments, G&K's subsequent responses to FNA's comments, and G&K's responses to NHTSA's resultant inquiries. Based on these reviews and associated analyses, NHTSA has concluded that the subject nonconforming vehicles, as originally manufactured, conform to many FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to comply with all applicable FMVSS as outlined in the petition, except as amended by NHTSA's following decisions.

NHTSA has concluded that an RI who imports one of these vehicles must complete modifications in addition to those proposed in the petition, and include, in the statement of conformity and associated documents (referred to as a ''conformity package'') they submit to NHTSA under 49 CFR 592.6(d,) additional specific proof to confirm that each vehicle was manufactured to conform to, or was successfully altered to conform to, each of the following standards:

FMVSS No. 101, Controls and Displays; FNA commented that a simple reprogramming of the software would be insufficient to render the vehicle compliant with the standard, and stated that in addition to various necessary software modifications, the instrument cluster must be replaced entirely, at considerable cost.

G&K responded that they have the necessary equipment and expertise to reprogram the vehicle to render the instrument cluster compliant. They also assert that this would be sufficient, and that replacement of the cluster would not be necessary.

NHTSA has decided that a description of how the programming changes were completed and how compliance with the standard was verified must be included in each conformity package. Photographs, printouts, and/or images of the installation computer's monitor (''screenshots''), as practicable, must also be submitted as proof that the reprogramming was carried out successfully. Proof must also be furnished that all portions of the instrument panel in the vehicle, as altered, meet the standard to which they are subject.

FMVSS No. 201, Occupant Protection in Interior Impact; FNA commented that the U.S. Market vehicles to which this petition refers have special A-pillar and rear pillar trims to satisfy the requirements of FMVSS No. 201, and that replacement of this trim would be especially expensive.

G&K responded that they have inspected the trim on the pillars of the vehicle subject to this petition, and that the relevant trim is identical both in appearance and material to the trim on the U.S.-certified vehicle.

NHTSA has decided that the A-pillar trim must be replaced with U.S.-conforming model replacement components. Each conformity package must include Ferrari replacement part number verification, which will consist of copies of purchase invoices and photographs, both pre- and post-installation, illustrating that the trim on the A-pillars of each vehicle being imported is identical to that in the U.S.-certified counterpart after the replacement parts are installed.

FMVSS No. 208, Occupant Crash Protection; FNA commented that the airbag system, and specifically the Child Seat Presence and Orientation Detector (''CPOD'') system, can be reprogrammed only by means of a specific device, and that this reprogramming is not straightforward. They further state that the passenger seat, front bumpers, and ceiling light would need to be replaced to ensure properly functioning sensors and telltales.

G&K responded that they will inspect the passenger seat of each imported vehicle for compliance, and replace the seat or install components as necessary. They also assert that they have the necessary equipment and expertise to program the vehicle to activate the necessary sensing systems to satisfy the advanced airbag requirements. Finally, they state they will inspect, and replace as necessary, the ceiling lights to incorporate the necessary telltale, and that the relevant sensors in the bumpers are identical for the certified and non-certified vehicles.

NHTSA has decided that the passenger seat, the ceiling light containing the passenger airbag telltale, and the front bumper must be replaced with the U.S.-conforming model replacement component. Each conformity package must include Ferrari replacement part number

verification, which will consist of copies of purchase invoices and a detailed description of the occupant protection system in place on the vehicle at the time it was delivered to the RI. The RI must also provide a similarly detailed description of the occupant protection system in place after the vehicle is altered, including photographs of all required labeling. The descriptions must include assembly diagrams and associated part numbers for all components that were removed from and installed on the vehicle, and descriptions of how the programming changes were completed and how compliance was verified. Additionally, photographs (*e.g.,* screenshots) or report printouts, as practicable, must be submitted as proof that the reprogramming was carried out successfully. Proof in the form of test results that, as altered, the vehicle conforms to child protection requirements, passenger out of position, unbelted occupant, and telltale requirements of FMVSS No. 208 after the replacement parts and software updates are installed.

FMVSS No. 225, Child Restraint Anchorage Systems; FNA commented that while G&K correctly summarized that they will need to add the appropriate child restraint anchorage, this summary unduly minimizes the expense and potential difficulties of said installation. Specifically, FNA states that installation will require replacement of upholstery, and that the screw holding the anchorage must be tightened to a precisely-defined torque.

G&K responded by asserting that they have the necessary experience to install such an anchorage in a vehicle.

NHTSA has decided that each conformity package must include photographic evidence that the required anchorage has been installed in each imported vehicle, and include a description of how the RI accomplished proper torqueing of the anchorage screw.

FMVSS No. 301 Fuel System Integrity; FNA stated that the modifications to the fuel system that G&K identified in their petition may overlook reinforcements that have been provided for U.S.-certified vehicles to limit the movement of the gearbox in rear-end collisions as a means of preventing its impact with the fuel tank.

G&K responded by reiterating that they will inspect each individual vehicle for compliance with this standard, and that they will install additional brackets behind the gearbox similar to those found in U.S.-certified vehicles as necessary.

NHTSA has decided that each conformity package must include a detailed description of all modifications made to achieve conformity with this standard and that all newly installed and replaced components must be U.S.-conforming model Ferrari replacement components, provided that the non-U.S. vehicles were manufactured with mounting anchorages that are identical to those on the U.S.-certified vehicles. This description must include part number verification for each part replaced, copies of purchase invoices, and photographic evidence of the modifications made to achieve conformity.

In addition to the information specified above, each conformity package must include evidence showing how the RI verified that the changes they made in loading or reprograming vehicle software to achieve conformity with each separate FMVSS, did not also cause the vehicle to fall out of compliance with any other applicable FMVSS.

Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that MY 2013–2014 Ferrari F12 Berlinetta passenger cars that were not originally manufactured to comply with all applicable FMVSS, are substantially similar to MY 2013–2014 Ferrari F12 Berlinetta passenger cars manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal Motor Vehicle Safety Standards.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–594 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

Michael Cole,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2018–05917 Filed 3–22–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Appraisal Management Companies

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 the respondent is 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, ''Appraisal Management Companies.''

DATES: You should submit written comments by May 22, 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. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0324, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0324'' in your comment. In general, the OCC will publish them on *www.reginfo.gov* without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. 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.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection [1] by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0324'' or ''Appraisal Management Companies.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW, Washington, DC. 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.

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 extension 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 collection of information set forth in this document.

Title: Appraisal Management Companies.

OMB Control No.: 1557–0324.

Affected Public: Business or other for-profit.

Type of Review: Regular review.

Abstract: The OCC, Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Consumer Financial Protection Bureau (Bureau), and Federal Housing Finance Agency (FHFA) (Agencies) have rules implementing the minimum requirements in section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to be applied by States in the registration and supervision of appraisal management companies (AMCs). The Agencies have also implemented the requirement in section 1473 of the Dodd-Frank Act for States to report to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) the information required by the Appraisal Subcommittee (ASC) to administer the new national registry of appraisal management companies (AMC National Registry or Registry).

State Recordkeeping Requirements

States seeking to register AMCs must have an AMC registration and supervision program. Section 34.213(a) requires each participating State to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) Review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential law, regulation, or order violations; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.

Section 34.213(b) requires each participating State to impose requirements on AMCs not owned and controlled by an insured depository institution and regulated by a Federal financial institution's regulatory agency to: (i) Register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which the AMC operates; (ii) use only State-certified or State-licensed appraisers for Federally regulated transactions in conformity with any Federally regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with Uniform Standards of Professional Appraisal Practices (USPAP); and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with section 129E(a)–(i) of the Truth in Lending Act.

State Reporting Burden

Section 34.216 requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the ASC the information required to be submitted under subpart H to part 34 and any additional information required by the ASC concerning AMCs.

AMC Reporting Requirements

Section 34.215(c) requires that a Federally regulated AMC must report to the State or States in which it operates the information required to be submitted by the State pursuant to the ASC's policies, including: (i) Information regarding the determination of the AMC National Registry fee; and (ii) the information listed in § 34.214.

Section 34.214 provides that an AMC may not be registered by a State or included on the AMC National Registry if such company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Each person that owns more than 10 percent of an AMC shall submit to a background investigation carried out by the State appraiser certifying and licensing agency. While § 34.214 does not authorize States to conduct background investigations of Federally

[1] Following the close of the 60-Day comment period for this notice, the OCC will publish a notice for 30 days of comment for this collection.

regulated AMCs, it would allow a State to do so if the Federally regulated AMC chooses to register voluntarily with the State.

AMC Recordkeeping Requirements

Section 34.212(b) provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) The AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser. The AMC would retain these notices in its files.

Estimated Number of Respondents: 200 AMCs; 55 States and Territories.

Total Estimated Annual Burden: 421.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(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.

Dated: March 15, 2018.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel.

[FR Doc. 2018–05890 Filed 3–22–18; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Employers' Identification Numbers

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 public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning information collection requirements related to the application for an employer identification number.

DATES: Written comments should be received on or before May 22, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Roberto Mora-Figueroa, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employers' identification numbers.

OMB Number: 1545–0003.

Form Number: SS–4; SS–4–PR.

Abstract: Sections 6011 and 6109 of the Internal Revenue Code, section 31.6011(b) of the Employment Tax Regulations, and section 301.6109 1 of the Procedures and Administration Regulations require certain taxpayers to have an employer identification number (EIN), for use on returns, statements, or other documents. An EIN is a nine-digit number (for example, 12–3456789) assigned to sole proprietors, corporations, partnerships, estates, trusts, and other entities for tax filing and reporting purposes.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,612,708.

Estimated Time per Respondent: 33 minutes.

Estimated Total Annual Burden Hours: 903,116.

The following paragraph applies to all 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 if 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.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 19, 2018.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2018–05930 Filed 3–22–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 23, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Community Development Financial Institutions (CDFI)

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1559–0041.

Type of Review: Extension without change of a currently approved collection.

Abstract: This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Forms: Framework for the Future Survey, Financial Products and Services Targeting Low-Income People with Disabilities Survey, 2017 CDFI and NACA Program Application Customer Survey—Private Sector and Non Profits, 2017 CDFI and NAVA Program Application Customer Service Survey—Tribal Respondents, BEP 2017 Science and Technology Week Visitor Survey.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 10,000.

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

Dated: March 19, 2018.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2018–05885 Filed 3–22–18; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; EEO Complaint Forms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before April 23, 2018.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: EEO Complaint Forms.

OMB Control Number: 1505–XXXX.

Type of Review: New Collection.

Abstract: Title 29 of the United States Code of Federal Regulations (CFR) Part 1614, directs agencies to maintain a continuing program to promote equal opportunity and to identify and eliminate discriminatory practices and policies. The Department of the Treasury (Department) is thus required to process complaints of employment discrimination from Department employees, former employees and applicants for jobs with the Department who claim discrimination based on their membership in a protected class, such as, race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (over 40), disability, genetic information, or retaliation for engaging in prior protected activity. Claims of discrimination based on parental status are processed as established by Executive Order 11478 (as amended by Executive Order 13152). Federal agencies must offer pre-complaint ''informal'' counseling and/or Alternative Dispute Resolution (ADR) to these ''aggrieved individuals'' (the aggrieved), claiming discrimination by officials of the Department. If the complaint is not resolved during the informal process, agencies must issue a Notice of Right to File a Complaint of Discrimination form to the aggrieved. This information is being collected for the purpose of processing informal and formal complaints of employment discrimination against the Department on the bases of race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (over 40), disability, genetic information, parental status, or retaliation. Pursuant to 29 CFR 1614.105, the aggrieved must participate in pre-complaint counseling to try to informally resolve his/her complaint prior to filing a complaint of discrimination. Information provided on the pre-complaint forms may be used by the aggrieved to assist in determining if she or he would like to file a formal complaint against the Department. The information captured on these forms will be reviewed by the staff of the Department's Office of Civil Rights and Diversity to frame the claims for investigation and determine whether the claims are within the parameters established in 29 CFR part 1614. In addition, data from the complaint forms is collected and aggregated for the purpose of discerning whether any Department of the Treasury policies, practices or procedures may be curtailing the equal employment opportunities of any protected group.

Forms: TD F 62–03.1, TD F 62–03.2, TD F 62–03.4, TD F 62–03.6, TD F 62–03.7, TD F 62–03.8, TD F 62–03.9, TD F 62–03.10, TD F 62–03.5, TD F 62–03.11.

Affected Public: Individuals and Households.

Estimated Total Annual Burden Hours: 47.

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

Dated: March 19, 2018.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2018–05884 Filed 3–22–18; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0004]

Agency Information Collection Activity Under OMB Review: Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child; Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child—In-Service Death; Application for DIC, Death Pension, and/or Accrued Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 23, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0004'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk, Department of Veterans Affairs, 811 Vermont Avenue, Floor 5, Area 368, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0004'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 1310 through 1314 and 1532 through 1543.

Title: Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (VA Form 21P–534); Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child—In-Service Death (21P–534a); Application for DIC, Death Pension, and/or Accrued Benefits (VA Form 21P–534EZ).

OMB Control Number: 2900–0004.

Type of Review: Extension without change of a currently approved collection.

Abstract: Information is requested by these forms under the authority of 38 U.S.C. 1310 through 1314 and 1532 through 1543. VA Form 21P–534 is used to gather the necessary information to determine the eligibility of surviving spouses and children for dependency and indemnity compensation (DIC), death pension, accrued benefits, and death compensation. VA Form 21P–534a is an abbreviated application for DIC that is used only by surviving spouses and children of veterans who died while on active duty service. The VA Form 21P–534EZ is used for the Fully Developed Claims (FDC) program for pension claims.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 2878 on January 19, 2018, pages 2878 and 2879.

Affected Public: Individuals and households.

Estimated Annual Burden: 69,091 hours.

Estimated Average Burden per Respondent: 36.05 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 115,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2018–05994 Filed 3–22–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0843]

Agency Information Collection Activity: VHA Homeless Programs Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health 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 revision 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 May 22, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–0843'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 615–9241.

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, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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: Public Law 102–405, Public Law 103–446 and Public Law 105–114.

Title: VHA Homeless Programs, Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans.

OMB Control Number: 2900–0843.

Type of Review: Revision of a currently approved collection.

Abstract: In 1993 the Department of Veterans Affairs (VA) launched Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans in response to Public Law 102–405 which required VA to make an assessment of the needs of homeless Veterans in coordination with other Federal departments, state and local government agencies, and nongovernmental agencies with experience working with homeless persons. Since 1993, VA has administered a needs assessment in accordance with guidance in Public Law 103–446 and Public Law 105–114.

This collection of information is necessary to ensure that VA and community partners are developing services that are responsive to the needs of local homeless Veterans, in order to end homelessness and prevent new Veterans from experiencing homelessness. Over the years, data from CHALENG has assisted VA in developing new services for Veterans such as the Homeless Veteran Dental Program (HVDP), the expansion of the Department of Housing and Urban Development-VA Supportive Housing (HUD–VASH) Program, the Veterans Justice Programs and Supportive Services for Veteran Families (SSVF). In addition community organizations use CHALENG data in grant applications to support services for homeless Veterans; grant applications are for VA, other Federal, local government, and community foundation dollars, which maximize community participation in serving homeless Veterans.

Affected Public: Individuals and households.

Estimated Annual Burden:

Veteran Survey—10–10161—500 hours.
Provider Assessment—10–10162—705 hours.

Estimated Average Burden per Respondent:

Veteran Survey—10–10161—6 minutes.
Provider Assessment—10–10162—9 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

Veteran Survey—10–10161—5,000.
Provider Assessment—10–10162—4,700.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2018–05993 Filed 3–22–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan Worksheet

AGENCY: Loan Guaranty Service, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Loan Guaranty Service, 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 May 22, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *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.* Please refer to ''OMB Control No. 2900–0386'' in any correspondence. During the comment period, comments may be viewed online through 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: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Interest Rate Reduction Refinancing Loan (IRRRL) Worksheet VAF 26–8923.

OMB Control Number: 2900–0386.

Type of Review: Extension of a currently approved collection.

Abstract: The major use of this form is to determine Veterans eligible for an exception to pay a funding fee in connection with a VA-guaranteed loan. Lenders are required to complete VA Form 26–8923 on all interest rate reduction refinancing loans and submit the form to the Veteran no later than the third business day after receiving the Veteran's application.

Affected Public: Individuals and households.

Estimated Annual Burden: 23,333 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 140,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2018–05907 Filed 3–22–18; 8:45 am]

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H.R. 1208/P.L. 115–138

To designate the facility of the United States Postal Service located at 9155 Schaefer Road, Converse, Texas, as the ''Converse Veterans Post Office Building''. (Mar. 20, 2018; 132 Stat. 345)

H.R. 1858/P.L. 115–139

To designate the facility of the United States Postal Service located at 4514 Williamson Trail in Liberty, Pennsylvania, as the ''Staff Sergeant Ryan Scott Ostrom Post Office''. (Mar. 20, 2018; 132 Stat. 346)

H.R. 1988/P.L. 115–140

To designate the facility of the United States Postal Service located at 1730 18th Street in Bakersfield, California, as the ''Merle Haggard Post Office Building''. (Mar. 20, 2018; 132 Stat. 347)

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