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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AN49

Weather and Safety Leave

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing new regulations on the granting and recording of weather and safety leave for Federal employees. The Administrative Leave Act of 2016 created four new categories of statutorily authorized paid leave—administrative leave, investigative leave, notice leave, and weather and safety leave—and established parameters for their use by Federal agencies. These regulations will provide a framework for agency compliance with the new statutory requirements regarding weather and safety leave. OPM will issue separate final regulations to address administrative leave, investigative leave, and notice leave at a later date.

DATES: *Effective date:* This final rule is effective on May 10, 2018.

FOR FURTHER INFORMATION CONTACT: Kurt Springmann by email at *pay-leave-policy@opm.gov* or by telephone at (202) 606–2858.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing final regulations to implement the weather and safety leave provisions of the Administrative Leave Act of 2016, enacted under section 1138 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328, 130 Stat. 2000, December 23, 2016). The Administrative Leave Act of 2016, hereafter referred to as ''the Act,'' added three new sections in title 5 of the U.S. Code that provide for specific categories of paid leave and requirements that apply to each: Section 6329a regarding administrative leave; section 6329b regarding investigative leave and notice leave; and section 6329c regarding weather and safety leave.

OPM published proposed regulations (82 FR 32263) on these new categories of leave on July 13, 2017. The 30-day comment period for the proposed regulations ended on August 14, 2017. After careful consideration of the comments received, and in recognition of the different implementation dates for the new leave categories under the Act, OPM has determined that it would better serve agencies if the final regulations on new subpart P, Weather and Safety Leave, were issued separately from the final regulations on the other leave categories. Accordingly, this **Federal Register** document provides general information, addresses the comments received, and issues final regulations that reflect changes to the proposed regulations expressly regarding subpart P, Weather and Safety Leave. OPM will issue separate final regulations on the other leave categories in the **Federal Register** at a later date.

Effective Date

While the Act directed OPM to prescribe (*i.e.,* publish) regulations no later than 270 calendar days after the Act's enactment on December 23, 2016—*i.e.,* September 19, 2017—OPM was unable to meet that requirement. The Act further directed that agencies ''revise and implement the internal policies of the agency'' to meet the statutory requirements pertaining to administrative leave, investigative leave, and notice leave no later than 270 calendar days after the date on which OPM issues its regulations. (See 5 U.S.C. 6329a(c)(2) and 6329b(h)(2).) However, there is no similar agency implementation provision in the law governing weather and safety leave. Therefore, the weather and safety leave regulations in subpart P must be implemented when the final rule is effective—*i.e.,* 30 days after publication. (See the **DATES** section of this preamble.) OPM will delay enforcing the requirement in subpart P that agencies separately report weather and safety leave to OPM until the 270th day following publication of the final regulations on subparts N (administrative leave) and O (investigative leave and notice leave).

To the extent that existing agency collective bargaining agreements contain provisions that are inconsistent with the statutory provisions of the Administrative Leave Act (including sections 6329a, 6329b, or 6329c), then the Act supersedes—as of the applicable implementation date—conflicting provisions in agency collective bargaining agreements as a matter of law. For an agency collective bargaining agreement in effect before publication of these regulations, any provisions in the regulations (other than those restating statutory requirements) that are in conflict with the agreement may not be enforced until the expiration of the current term of the agreement. For an agency collective bargaining agreement that takes effect on or after the date these regulations are published, regulatory provisions will supersede conflicting provisions in the agreement during any period of time following the applicable regulatory implementation date. To the extent that the Act and accompanying regulations are not inconsistent with the provisions in agency collective bargaining agreements, those provisions remain in effect until the provisions expire or are renegotiated.

Agencies are responsible for compliance with time limits provided for in the Act and OPM regulations and guidance.

New Subpart in 5 CFR Part 630

In this final rule, OPM is adding subpart P, Weather and Safety Leave (implementing 5 U.S.C. 6329c) to 5 CFR part 630. Hereafter in this **SUPPLEMENTARY INFORMATION** section, references to statutory provisions in title 5 of the United States Code will generally be referred to by section number without restating the title 5 reference (*e.g.,* section 6329c instead of 5 U.S.C. 6329c). Also, references to regulatory provisions in title 5 of the Code of Federal Regulations will generally be referred to by section number without restating the title 5 reference (*e.g.,* § 630.1601 instead of 5 CFR 630.1601).

Weather and safety leave is permitted—at an agency's discretion but subject to statutory and regulatory requirements, agency policies, and lawful collective bargaining provisions—only when an agency determines that employees cannot safely

travel to and from, or perform work at, their normal worksite, a telework site, or other approved location because of severe weather or other emergency situations. Though granting of weather and safety leave must follow the guidelines and eligibility requirements contained in section 6329c and these implementing regulations, and it is anticipated that such leave would be granted sparingly in the case of employees participating in telework, there is no cap on the number of hours that may be granted for such leave.

Both the law and the regulations address recordkeeping and reporting requirements on weather and safety leave with which agencies must comply. Agencies must keep separate records on weather and safety leave.

Comments on Proposed Regulations

We received comments relating to the proposed regulations on weather and safety leave from 6 agencies, 4 unions, 1 other organization, and 8 individuals. In the first section below, we address general or overarching comments. In the sections that follow, we address comments related to specific portions of the regulations.

General

Comment: Multiple commenters requested guidance about how the new types of leave should be coded in the payroll system to accurately account for and track the use of these new leave provisions.

OPM response: The regulations specify that an agency must track the use of the new categories of leave using five categories: (1) Administrative leave for investigative purposes, (2) administrative leave for other purposes, (3) investigative leave, (4) notice leave, and (5) weather and safety leave. The regulations do not address details regarding the coding of leave in agency payroll systems or in OPM's Government payroll databases. OPM will be providing payroll providers with instructions on how to properly code the various types of leave.

Comment: An organization expressed concern that having reports prepared by the Government Accountability Office (GAO) submitted every 5 years is too infrequent. Instead, the organization stated that agencies should be required to maintain real-time, current tallies of all types of paid leave available on its website for all to see, rather than buried in obscure, long, after-the-fact reports.

OPM response: Payroll providers submit payroll data to OPM every biweekly pay period. Thus, agencies and OPM will have real-time data that could be used to generate reports as necessary. The requirement for GAO reports every 5 years is a statutory requirement, which OPM has no authority to change. (See section 1138(d)(2) of Pub. L. 114–328.)

Comment: An organization stated that the regulations make no provision for ensuring that agencies establish necessary agency rules or that agency rules are consistent with OPM regulations. The organization suggested that OPM exercise oversight over agency practices.

OPM response: The Administrative Leave Act directed OPM to issue regulations and guidance dealing with the appropriate uses and proper recording of the new types of leave, but otherwise imposed no special obligation to monitor agency practices. Although OPM has more general authority to exercise an oversight function, OPM does not have the resources to regularly evaluate every agency personnel program, and no need for such a program has, as yet, been established in this context. OPM can and will intervene if it becomes aware that an agency is not complying with the law and regulations for which OPM is responsible. Each agency, along with Inspectors General, is responsible for evaluating agency personnel programs and the actions of its managers.

Comment: One commenter noted the telework-related provisions in the proposed regulations and expressed concern that Federal employees were not performing required hours of work while teleworking.

OPM response: The Telework Enhancement Act of 2010 (the Act), now codified at 5 U.S.C. 6501–6506, specifies roles, responsibilities and expectations for all Federal executive agencies with regard to telework policies; employee eligibility and participation; program implementation; and reporting. Under the Act, each agency is responsible for ensuring that employees perform required hours of work while teleworking. These regulations merely recognize the fact that the option of telework is available by law, as specified, under authority of 5 U.S.C. chapter 65 and explains how telework relates to the new types of leave.

Comment: A union requested clarification that, unlike OPM's Governmentwide regulations, OPM-issued ''guidance'' (*e.g.,* weather/safety leave guidance) does not interfere with a union's bargaining rights or legal obligations in existing collective bargaining agreements.

OPM response: To respond to the comment about the relationship between OPM guidance and collective bargaining agreements, we must first address how statutory and regulatory requirements affect collective bargaining agreements. Statutory requirements established by the Administrative Leave Act supersede conflicting provisions in any agency collective bargaining agreement—as of the applicable implementation date. Thus, the requirements in section 6329c would prevail over conflicting provisions in any agency collective bargaining agreement effective on the date that is 30 days after publication of these final regulations. For example, section 6329c allows agencies to provide weather/safety leave ''only if'' an employee is ''prevented from safely traveling to or performing work at an approved location.'' By definition, for an employee participating in a telework program, the telework site is an approved location. Thus, the law bars granting weather/safety leave to an employee who can safely work at home under a telework arrangement.

If OPM regulatory requirements that go beyond statutory requirements conflict with an existing agency collective bargaining agreement, those regulatory requirements may not be implemented until the expiration of the current term of the agreement. (See section 7116(a)(7).) However, for any agency collective bargaining agreement that takes effect on or after the date these regulations are published, regulatory provisions will supersede conflicting provisions in the agreement during any period of time following the regulatory implementation date (30th day following publication). Once applicable, OPM regulations will have the force of law and be binding on agencies.

Once OPM regulations are in force, we will also expect agencies to comply with any related OPM guidance concerning compliance with the Act or regulations, and such guidance may itself impact an agency's collective bargaining obligations. For example, if the negotiability of a proposal or provision is at issue before the FLRA or Courts in the future, an agency may rely upon OPM's regulations and guidance as reasons why the proposal or provision would be contrary to law under the Federal Service Labor-Management Relations Statute and, therefore, be nonnegotiable.

Comment: One individual commented that agencies should not grant weather and safety leave, but instead should require employees to use their annual leave when they are prevented from safely traveling to work.

OPM response: The statute confers upon agencies the authority to grant

weather and safety leave without loss of ''leave to which the employee or employees are otherwise entitled'' (section 6329c(b)). Weather and safety leave is generally appropriate when Government offices are closed for a full or partial day because of snow or any other weather or safety conditions and the employee is prevented from working or otherwise unable to work at an alternative worksite pursuant to the criteria provided in section 6329c(b). This would cover situations where working at an alternative worksite is itself unsafe, where the employee is ineligible for telework, or where the employee is not participating in a telework program. At the sole and exclusive discretion of agency management, it could also be used to cover the unusual situation where a teleworker is unprepared to telework because the event could not be readily anticipated (*e.g.,* the normal workplace is rendered unsafe following a fire, flood, or earthquake) and the employee does not have equipment or materials he or she would need to perform work.

Comment: A union believed that OPM should impose the same 270-day delay in implementation for agency internal policies on weather and safety leave as is done for administrative leave, investigative leave, and notice leave. The union said that otherwise, the implementation and use of weather and safety leave could be improperly delayed indefinitely, creating uncertainty and confusion in the workplace. An individual similarly commented that the subpart P regulations should take effect in 270 days consistent with the other requirements in the Act.

OPM response: The Act provides a 270-day implementation period for administrative leave under 5 U.S.C. 6329a(c)(2) and for investigative and notice leave under 5 U.S.C. 6329b(h)(2), but does not provide a similar period for weather and safety leave under 5 U.S.C. 6329c. Therefore, the regulations on weather/safety leave under subpart P will take effect 30 days from this date of publication. As provided in § 630.1604(b) of the regulations, agency policies and procedures on weather/safety leave must be consistent with OPM's regulations and guidance.

Section 630.1602—Definitions

Comment: One agency recommended that OPM change the definition of ''act of God'' to ''act of nature.''

OPM response: OPM chose to use ''act of God'' over ''act of nature'' because ''act of God'' is the terminology used by the weather/safety leave statute. (See section 6329c(b)(1).)

Section 630.1603—Authorization

Comment: An agency recommended adding a fourth weather/safety leave category for severe commuting situations such as closure of a mass transit system or a major highway. An individual suggested that OPM revise § 630.1603 to authorize agencies to grant employees weather/safety leave for the purposes of preparing their homes for an imminent hurricane or other natural disaster.

OPM response: The language of the weather and safety leave statute at section 6329c(b) authorizes its use only ''if the employee or group of employees is prevented from *safely* traveling to or performing work at an approved location'' (italics added). OPM cannot authorize this type of leave for mass transit or commuting problems not related to safety matters. Employees have other workplace flexibilities available to address these situations, including alternative work schedules, leave, and telework. However, an agency could choose to close the Federal facility in preparation for a severe hurricane or other pending disaster based on safety considerations. Since ''weather and safety'' leave may be granted when Government offices are closed for a full or partial day because of severe weather and safety conditions, provided an employee is prevented from performing or otherwise unable to work at an approved location based on criteria as specified in section 6329c(b), the leave may be appropriate for these purposes—*e.g.,* evacuation of an area due to a hurricane.

Comment: An agency recommended that managerial discretion be allowed in instances where an employee is unavoidably delayed or necessarily absent for a short period of time because of a weather/safety issue.

OPM response: Weather/safety leave may be provided when employees are prevented from safely traveling to or safely performing work at an approved location. This type of leave is generally granted in conjunction with an agency or OPM operating status announcement. Such an operating status announcement may allow for a delayed arrival or early departure and the use of weather and safety leave to cover the short period of absence. In other circumstances, an agency may authorize administrative leave under section 6329a, subject to the 10-workday calendar year limitation (once section 6329a is implemented), for employees whose arrival at work is delayed; however, such use is subject to the sole and exclusive discretion of the head of the agency or his or her delegees, and should be consistent with agency policy. It is anticipated that granting of such leave would be rare.

Comment: An individual asked what position should be taken if officials authorize weather/safety leave when there are no weather/safety conditions present.

OPM response: The statute at section 6329c(b) prescribes that weather/safety leave may be provided ''only if the employee or group of employees is prevented from safely traveling to or performing work at an approved location'' due to the conditions specified under § 630.1603. This type of leave is generally provided in connection with an OPM or agency-specific operating announcement. Providing this leave when none of the weather/safety conditions listed under § 630.1603 are present would be inconsistent with the statute. Each agency is responsible for ensuring the weather/safety leave is used appropriately and, when it is not, taking necessary corrective action.

Comment: To reflect the statutory language at section 6329c(b), an agency recommended that OPM add the word ''only'' to § 630.1603 so that it reads ''only if they are prevented from safely traveling.''

OPM response: The word ''only'' has been added to § 630.1603.

Section 630.1604—OPM and Agency Responsibilities

Comment: A union asked if it was appropriate for an agency to require employees to request annual leave when prevented from traveling to the worksite by a weather/safety event and then later requiring the employees to request conversion of the annual leave to weather/safety leave.

OPM response: Weather and safety leave generally should be authorized based on operating status announcements. In most cases, if an employee requests annual leave in order to depart before an announcement is made, the employee will remain on annual leave. More information will be provided in OPM guidance.

Comment: An agency asked if weather/safety leave or administrative leave applies when OPM or a local Federal Executive Board closes installations due to snow.

OPM response: Weather/safety leave generally will be provided in conjunction with an operating status announcement and may be used when Government offices are closed because of snow or any other weather or safety conditions, provided conditions for granting leave pursuant to section 6329c(b) are met.

Section 630.1605—Telework and Emergency Employees

Comment: An individual commenter objected to § 630.1605(a)(1) because the commenter viewed the regulation as forcing an employee to telework when an agency closes during a weather or safety event. The commenter stated that this rule had the effect of treating all telework employees as emergency employees. The commenter further stated that the safety of the employee should be given priority. The commenter noted that some existing collective bargaining agreements do not allow employees to telework when an agency is closed due to a weather/safety event.

OPM response: The weather/safety leave regulation does not force employees to telework. Rather it recognizes that weather/safety leave is normally unnecessary if an employee is eligible for and participating in a telework program and is able to work at his or her alternative work location, notwithstanding the conditions at the default workplace. The regulation simply provides a framework and criteria for decisions about whether to grant weather and safety leave to Federal employees, including those employees who are approved to telework. If a telework-participating employee does not meet the criteria for the granting of weather/safety leave and seeks not to telework, the employee has other options—the same options the employee would have on any other day he/she seeks not to work (*e.g.,* requesting annual leave, requesting leave without pay etc.). Since the employee has the option to telework, the employee is able to work without compromising his/her safety. Weather/safety leave is granted solely because of safety risks. As stated in the law at section 6329c(b), weather/safety leave is to be granted ''only if'' an employee is ''prevented from safely traveling to or performing work at an approved location,'' and for an authorized teleworker the telework site (usually the employee's home) is an approved work location. Emergency employees are governed by a different set of guidelines than telework-participating employees. Unlike many emergency employees, the teleworker is not expected to report to the regular worksite when an emergency has caused the regular office to be closed to the public. To the extent that an existing collective bargaining agreement contains provisions that conflict with the nonstatutory requirements in telework-related regulations in § 630.1605(a), however, this regulation may not be enforced during the current term of the agreement (5 U.S.C. 7116(a)(7)).

Comment: Another individual commented that the denial of weather/safety leave to teleworkers penalizes those who only occasionally telework and discourages employees from agreeing to situational telework. The commenter recommended that the regulations include an annual threshold for situational teleworking days under which an employee, with supervisor concurrence, would not be required to telework or take leave when the government is closed for weather and safety purposes.

OPM response: As noted above, the statute at section 6329c(b) permits weather/safety leave only if the employee is prevented from safely traveling to or performing work at an approved location. Occasional teleworkers have the same ability as regular teleworkers to perform work at an approved location (the telework site) during weather/safety events. Occasional teleworkers also realize the benefits of teleworking, although not as frequently as regular teleworkers. OPM does not believe that the inability to receive weather/safety leave on the rare occasions when weather/safety events close offices will discourage a significant number of employees from seeking the benefit of occasional teleworking. Even if it does cause some employees to not engage in occasional teleworking, however, the regulation is consistent with the underlying purpose of this later statute, which is to limit weather/safety leave to situations where an employee is unable to perform work at an approved location.

Comment: A union asked what criteria are necessary to determine if an employee can reasonably work from home and what happens if the employee does not have a home and equipment that are suitable for teleworking. The union also commented that it was not equitable for those with telework agreements to work on days when those without agreements are not required to work. The union further said that it is not reasonable to force teleworkers to be forecasters of weather and safety events such that they must be telework ready on all workdays. The union additionally stated that telework policies are trending toward expecting employees to maintain their residence in a continuous telework-ready state by requiring mandatory telework during emergency closure of the regular worksite, which in effect requires employees to provide ''free rent'' of their residential office to the government on days when they were not planning to telework.

OPM response: The regulations on weather/safety leave related to teleworkers apply only to employees who are already ''participating in a telework program'' (as defined in § 630.1602). For such telework program participants who already telework at home, they must have a home and equipment suitable for teleworking. Agency telework policies and employee telework agreements establish the criteria for determining whether an employee can reasonably work from home. At a minimum, and subject to other requirements of the agency, teleworkers must have sufficient work and a workplace conducive to performing the work. If the employee does not have a suitable home or cannot transport needed equipment to his or her home, then the employee should not have a telework agreement. Employees without telework agreements cannot work from home; therefore, they may be granted weather/safety leave under these regulations.

Employees with telework agreements gain the benefits of teleworking, but generally will not be granted weather/safety leave when a weather/safety event can be reasonably anticipated. Warnings for these anticipated events are usually broadcast in the media well in advance and, for that reason, teleworkers are generally expected to know that they need to be prepared to work from home when the event occurs. Because agencies may provide weather/safety leave to teleworkers when, in the agency's judgment, the event could not be reasonably anticipated and an employee is otherwise prevented from performing work, there is no need for teleworkers to be prepared to telework on days when a major event is not anticipated unless it coincides with an already scheduled telework day. There is no requirement for employees to maintain their residence in a continuous telework-ready state or dedicate any part of their residence for telework purposes beyond any requirements in connection with their normally scheduled telework. For employees who have a regular telework schedule, there is essentially no difference between activities required to maintain a residence in a telework-ready state when expecting a weather event and maintaining it in a telework ready state when preparing for any other telework day, nor is there any meaningful difference in how an employee would dedicate space in their residence under these respective scenarios. OPM also notes that these regulations do not require mandatory telework during emergency closures, but instead bar

weather/safety leave from being granted when employees can telework.

Comment: A union said that it is the responsibility of the agency to timely notify employees of an impending weather/safety condition if the agency wants the employees to telework on a day when the employees would have otherwise worked in the office. The union believed it unfair and burdensome to make employees take annual leave when they do not bring work home.

OPM response: Under § 630.1605(a)(3), agencies have discretion in determining whether a weather/safety condition could be reasonably anticipated and whether the employee took reasonable steps to prepare for teleworking. OPM defers to an agency's judgment as to whether to provide notice in some manner of impending weather/safety conditions for which teleworking employees will not receive weather/safety leave. An agency notice, whether provided or not provided, may be a consideration in the determination as to whether an employee took reasonable steps to prepare for teleworking.

Comment: Three commenters expressed concern about employee dependent care responsibilities when an employee participates in a telework program and a weather or safety condition occurs that prevents safe travel. Two of the commenters pointed out that agencies often have telework policies that do not permit telework when employees have small children or other dependents at the telework site. Because § 630.1605(a)(1) prohibits agencies from granting weather and safety leave when an employee can telework at an approved telework site, the commenters believe that this section precludes agencies from granting weather and safety leave to employees with dependent care responsibilities.

OPM response: An agency may determine that, under certain conditions, employees are capable of teleworking even if they have school-age children or elderly parents in the home and establish a policy of allowing telework in such situations. However, if these circumstances diminish an employees' ability to perform agency work, they will not be eligible to telework under these conditions (5 U.S.C. 6502(b)(1)). If an agency policy bars telework at home in the given child/elder care situation, then the home is not an approved location. Thus, if the employee is not permitted to telework under agency policies, and cannot safely travel to or perform work at the regular office location, an agency may grant weather/safety leave to the employee. If agency policies allow an employee to telework with a school-age child or an elderly parent in the home in a weather/safety situation, any time spent in giving care to such individuals would not be considered hours of work. Under this scenario, an employee would be expected to account for work and non-work hours during his or her tour of duty and take the appropriate leave (paid or unpaid) to account for the time spent away from normal work-related duties.

Comment: An agency recommended that agencies be permitted to grant employees administrative leave when needed to address the effects of weather/safety events to ensure their safety, the safety of others, the integrity of their property, and/or their ability to report to work. The agency provided as examples the need to clear snow or remove excess water from their property.

OPM response: To the extent that activities such as clearing snow are truly necessary to ensure that the employee can safely travel to or safely perform work at an approved location, within the meaning of section 6329c(b)(3), the agency can provide weather/safety leave at its discretion for the period needed. Employees would need to use their annual leave or other time off for activities such as clearing snow on sidewalks or basement water removal that are not necessary to ensure that the employee can safely travel to or perform work at an approved location. OPM's guidance on dismissal and closure policy and procedures will further address agency discretion in regard to granting weather/safety leave.

Comment: The same agency asked why § 630.1605(a)(2)(iii) is necessary since agencies may not approve weather/safety leave if an employee could reasonably anticipate the need to telework.

OPM response: Paragraphs (i) and (ii) of § 630.1605(a)(2) provide for the granting of weather/safety leave in two instances where the employee might otherwise be expected to telework. Paragraph (iii) provides that agencies can determine not to provide weather/safety leave in circumstances such as those provided under (i) and (ii) when the employee can safely travel to or perform work at the regular worksite. In these instances, the telework site might not be viable, but the employee might be able to work at the regular worksite. An employee is generally expected to report to the regular worksite—even on a day when he or she is scheduled to telework—if conditions at the telework site do not permit the performance of work (*e.g.,* lack of internet access, loss of power).

Comment: The same agency asked when weather/safety leave is ever applicable to the telework site. The agency asked if it would be provided when the employee loses power while teleworking.

OPM response: Weather/safety leave may be granted to an employee at a telework site as provided under § 630.1605(a)(2)(ii). Examples of when weather/safety leave might be provided include weather-related damage to a home that makes occupying the home unsafe, loss of power at home (which makes the home not an approved location under agency telework policies), and employees not being prepared for teleworking when the conditions could not be anticipated (tornado or earthquake). The agency has discretion to grant weather/safety leave whenever an employee is prevented from safely working because of one of the conditions in § 630.1603.

Comment: A union requested that OPM clarify that under § 630.1605(a)(2)(iii) it is presumed that, if Government offices are closed, the weather/safety conditions prevent the employee from safely traveling to their traditional worksite.

OPM response: No such presumption applies. The agency must determine the actual facts. Section 630.1605(a)(2)(iii) addresses situations when an employee who participates in telework is unable to work from home or another alternative location, due to a weather/safety event, but the employee's regular worksite is open (or has reopened) for business. Even if the employee (who is a telework program participant) is not able to telework at home under the conditions described in paragraph (i) or (ii), the agency may choose not to provide an employee with weather/safety leave if the employee can safely travel to and work at the regular worksite—regardless of whether the given day was a scheduled telework day. Section 630.1605(a)(2)(iii) does not apply if the regular worksite is closed for weather/safety reasons.

Comment: An agency recommended that OPM correct the section reference in § 630.1605(a)(2)(iii) from ''630.1603(a)'' to ''630.1603.'' Another agency recommended that the same change be made in § 630.1605(a)(3). Two unions recommended that OPM provide in § 630.1605(b) that agencies inform employees of their designation as emergency employees at the time the designation is made.

OPM response: These changes have been made. OPM removed the paragraph designation from the

§ 630.1603 references and modified § 630.1605(b) to state ''an agency should inform employees of their designation as emergency employees well in advance.''

Comment: A union objected to the provision at § 630.1605(b) giving agencies discretion to designate emergency employees who are critical to agency operations. The union said that the provision would not prohibit or deter an agency from broadly construing ''necessary for critical agency operations'' and excluding an overly large group of employees from weather/safety leave. The union recommended that § 630.1605(b) be stricken in its entirety or, at a minimum, modified to narrow the types of employees who could be categorized as emergency employees. The union said that these employees should not be required to physically report to work when their colleagues are granted weather and safety leave.

OPM response: Agencies have extensive experience with designating emergency employees under prior dismissal and closure procedures used for weather and other emergencies. Since the Telework Enhancement Act of 2010, OPM has incorporated telework into our emergency operating announcements not only for the safety of our employees, but also to support continuity of operations, both for mission-critical functions and more general work to the extent possible. The Federal Government has a vital role in our economy and it is extremely important that we continue operations to the greatest degree possible. OPM believes agencies are in the best position to make determinations as to which employees should be designated as emergency employees and which employees are eligible to telework. Agencies are also in the best position to decide if emergency employees are needed at the worksite or whether their duties can be performed while teleworking.

Section 630.1606—Administration of Weather and Safety Leave

Comment: Two unions expressed concern about the regulation in § 630.1606(c), which provides that an employee may not receive weather/safety leave for hours during which the employee is on other preapproved leave (paid or unpaid) or paid time off. The unions objected to the rule that agencies should not approve weather/safety leave for an employee who, ''in the agency's judgment, is cancelling preapproved leave or paid time off, or changing a regular day off in a flexible or compressed work schedule, for the primary purpose of obtaining weather and safety leave.'' One union stated that, if employees have a right to modify scheduled time off, the primary purpose of a modification should not be left to the determination of management. The union warned that this rule could result in mass grievances, which could result in large costs to both the agency and the union. The other union voiced similar concerns, stating that an agency should be required to prove that an employee is cancelling preapproved leave for the primary purpose of obtaining weather/safety leave.

OPM response: The reason behind the rule on cancelling scheduled time off is to prevent employees from receiving paid leave when the employee was not actually going to be available to perform work. This is not a new policy and is currently reflected in OPM's operating status guidance for the Washington, DC, area. One good example is a situation in which an employee is on vacation in a distant location. Based on the unions' position, such an employee should be allowed to cancel preapproved leave and receive weather/safety leave even though the employee was not available to work at the regular worksite and is not affected by the weather/safety emergency. Another example is an employee who is in the middle of a 6-week period of scheduled unpaid leave under the Family and Medical Leave Act in order to recover from a serious illness and who clearly has no intention to report to work on the day of a weather/safety emergency. If such an employee tried to cancel the unpaid leave on the day of the weather/safety emergency, it would clearly be for the primary purpose of obtaining weather/safety leave. Given the variety of possible circumstances, OPM cannot prescribe a simple ''bright line'' rule (or even a set of rules) that does not require some judgment on the part of agency officials. Supervisors and managers are regularly called upon to exercise judgment in other contexts, and OPM believes they are capable of exercising appropriate judgment in this particular context and coming to a fair decision. OPM plans on providing additional guidance in this area regarding when a cancellation of preapproved leave would not prevent the granting of weather/safety leave because the employee's leave plans are also changed due to the weather/safety emergency—for example, when a doctor's appointment that was the reason for a request for sick leave is cancelled because of the same weather/safety event (*e.g.,* a major snowstorm), or when an employee is unable to leave for vacation because the employee's flight is cancelled due to such an event. (We note that any sick leave would mandatorily be cancelled if the doctor's appointment is cancelled and the employee is not sick.)

Comment: One individual described the two sentences in § 630.1606(c) as being contradictory. Another individual found the paragraph confusing and requested language changes to clarify that weather/safety leave was not allowed unless the employee demonstrated that the weather/safety event prevented the employee from using preapproved leave for the originally planned purpose.

OPM response: After considering these comments, OPM does not believe the sentences are contradictory and will leave the paragraph unchanged. The first sentence prohibits the granting of weather/safety leave to employees on preapproved leave. The second sentence bars an employee from receiving weather/safety leave if the agency determines that the employee cancelled preapproved leave for the primary purpose of receiving weather/safety leave. This bar does not apply to employees who cancel their preapproved leave because their leave plans are disrupted by the weather/safety event or some other reason (*e.g.,* a cancelled medical appointment or scheduled flight to a vacation destination). These employees may be approved for weather and safety leave if not otherwise required to telework or report to work under § 630.1605. OPM will be issuing guidance that will address this provision in more detail.

Comment: One agency noted prior policy regarding early departures and asked if the regulations are intended to bar weather/safety leave whenever an employee has pre-approved leave, no matter what the circumstances of the employee's leave.

OPM response: As addressed above, employees who cancel their preapproved leave because their leave plans are disrupted by the weather/safety event may be granted weather/safety leave, and OPM will be issuing more detailed guidance on that matter. OPM will also be issuing guidance that will provide more information on the relationship of preapproved leave to early dismissal from work at a Federal office or alternate work location.

In addition to the changes noted above, OPM made minor technical changes to § 630.1604 to improve clarity. We also changed ''approve'' to ''provide'' in several places in §§ 630.1605(a) and 630.1606(c) where the context was the providing of leave, since the term ''approve'' might suggest

the employee is requesting that a leave entitlement be invoked. There is no entitlement to weather and safety leave; it is always provided at the agency's discretion.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Executive Order 13771

This rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because the rule is related to agency organization, management, or personnel.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

For the reasons stated in the preamble, OPM is amending part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

■ 1. The authority citation for part 630 is revised to read as follows:

Authority: 5 U.S.C. chapter 63 as follows: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311; subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G issued under 5 U.S.C. 6305(c) and 6311; subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b); subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340; subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a); subpart K issued under 5 U.S.C. 6391(g); subpart L issued under 5 U.S.C. 6383(f) and 6387; subpart M issued under Sec. 2(d), Public Law 114–75, 129 Stat. 641 (5 U.S.C. 6329 note); and subpart P issued under 5 U.S.C. 6329c(d).

Subparts N and O—[Added and Reserved]

■ 2. Subparts N and O are added and reserved.

■ 3. Subpart P is added to read as follows:

Subpart P—Weather and Safety Leave

Sec.

Subpart P—Weather and Safety Leave

§ 630.1601 Purpose and applicability.

(a) This subpart implements 5 U.S.C. 6329c, which allows an agency to provide a separate type of paid leave when weather or other safety-related conditions prevent employees from safely traveling to or safely performing work at an approved location due to an act of God, terrorist attack, or other applicable condition. Section 6329c(d) directs OPM to prescribe regulations to carry out the statutory provisions on weather and safety leave, including regulations on the appropriate uses and the proper recording of this leave.

(b) This subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, but does not apply to an intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek.

(c) As provided in 5 U.S.C. 6329c(e), this subpart applies to employees described in subsection (b) of 38 U.S.C. 7421, notwithstanding subsection (a) of that section.

§ 630.1602 Definitions.

In this subpart:

Act of God means an act of nature, including hurricanes, tornadoes, floods, wildfires, earthquakes, landslides, snowstorms, and avalanches.

Agency means an Executive agency as defined in 5 U.S.C. 105, excluding the Government Accountability Office. When the term ''agency'' is used in the context of an agency making determinations or taking actions, it means the agency heads or management officials who are authorized (including by delegation) to make the given determination or take the given action.

Employee means an individual who is covered by this subpart, as described in § 630.1601(b) and (c).

OPM means the Office of Personnel Management.

Participating in a telework program means an employee is eligible to telework and has an established arrangement with his or her agency under which the employee is approved to participate in the agency telework program, including on a routine or situational basis. Such an employee who teleworks on a situational basis is considered to be continuously participating in a telework program even if there are extended periods during which the employee does not perform telework.

Telework site means a location where an employee is authorized to perform telework, as described in 5 U.S.C. chapter 65, such as an employee's home.

Weather and safety leave means paid leave provided under the authority of 5 U.S.C. 6329c.

§ 630.1603 Authorization.

Subject to other provisions of this subpart, an agency may grant weather and safety leave to employees only if they are prevented from safely traveling to or safely performing work at a location approved by the agency due to—

(a) An act of God;

(b) A terrorist attack; or

(c) Another condition that prevents an employee or group of employees from safely traveling to or safely performing work at an approved location.

§ 630.1604 OPM and agency responsibilities.

(a) OPM is responsible for prescribing regulations and guidance related to the appropriate use of leave under this subpart and the proper recording of such leave, including OPM guidance on Governmentwide dismissal and closure policies and procedures that provides for use of consistent terminology in describing various operating status scenarios. In issuing any operating status announcements for the Washington, DC, area, OPM must make the specific policies and procedures related to those announcements consistent with the regulations in this subpart and with OPM's Governmentwide guidance.

(b) Employing agencies are responsible for—

(1) Establishing and applying policies and procedures related to use of leave under this subpart that are consistent with OPM regulations and guidance described in paragraph (a) of this section; and

(2) Using terminology required by OPM-issued Governmentwide guidance in any agency-specific operating status announcements they issue (for a specific geographic location or area).

§ 630.1605 Telework and emergency employees.

(a) *Telework employees.* (1) Except as provided under paragraph (a)(2) of this section, employees who are participating in a telework program and are able to safely travel to and work at an approved telework site may not be

granted leave under § 630.1603. Employees who are eligible to telework and participating in a telework program under applicable agency policies are typically able to safely perform work at their approved telework site (*e.g.,* home), since they are not required to work at their regular worksite.

(2)(i) If, in the agency's judgment, the conditions in § 630.1603 could not reasonably be anticipated, an agency may provide leave under this subpart to the extent an employee was not able to prepare for telework as described in paragraph (a)(3) of this section and is otherwise unable to perform productive work at the telework site.

(ii) If an employee is prevented from safely working at the approved telework site due to circumstances, arising from one or more of the conditions in § 630.1603, applicable to the telework site, an agency may, at its discretion, provide leave under this subpart to the employee.

(iii) Notwithstanding paragraphs (a)(2)(i) and (ii) of this section, an agency may decide not to provide leave under this subpart when the conditions in § 630.1603 do not prevent the employee from safely traveling to or safely performing work at a regular worksite, even if the affected day is a scheduled telework day.

(3) In making a determination under paragraph (a)(2) of this section, an agency must evaluate whether any of the conditions in § 630.1603 could be reasonably anticipated and whether the employee took reasonable steps (within the employee's control) to prepare to perform telework at the approved telework site. For example, if a significant snowstorm is predicted, the employee may need to prepare by taking home any equipment (*e.g.,* laptop computer) and work needed for teleworking. To the extent that an employee is unable to perform work at a telework site because of failure to make necessary preparations for reasonably anticipated conditions, an agency may not provide weather and safety leave, and the employee would need to use other appropriate paid leave, paid time off, or leave without pay.

(b) *Emergency employees.* An agency may designate emergency employees who are critical to agency operations and for whom weather and safety leave may not be applicable. To the extent practicable, an agency should inform employees of their designation as emergency employees well in advance in anticipation of the possible occurrence of the conditions set forth in § 630.1603. If the agency wishes to provide for the possibility that an emergency employee could work from an approved telework site in lieu of traveling to the regular worksite in appropriate circumstances, an agency should encourage the employee to enter into a telework agreement providing for that contingency. An agency may designate different emergency employees for the different circumstances expected to arise from these conditions. Emergency employees must report to work at their regular worksite or another approved location as directed by the agency, unless—

(1) The agency determines that travel to or performing work at the worksite is unsafe for emergency employees, in which case the agency may require the employees to work at another location, including a telework site as provided in paragraph (a) of this section, as appropriate; or

(2) The agency determines that circumstances justify granting leave under this subpart to emergency employees.

§ 630.1606 Administration of weather and safety leave.

(a) An agency must use the same minimum charge increments for weather and safety leave as it does for annual and sick leave under § 630.206.

(b) Employees may be granted weather and safety leave only for hours within the tour of duty established for purposes of charging annual and sick leave when absent. For full-time employees, that tour is the 40-hour basic workweek as defined in 5 CFR 610.102, the basic work requirement established for employees on a flexible or compressed work schedule as defined in 5 U.S.C. 6121(3), or an uncommon tour of duty under § 630.210.

(c) Employees may not receive weather and safety leave for hours during which they are on other preapproved leave (paid or unpaid) or paid time off. Agencies should not provide weather and safety leave to an employee who, in the agency's judgment, is cancelling preapproved leave or paid time off, or changing a regular day off in a flexible or compressed work schedule, for the primary purpose of obtaining weather and safety leave.

§ 630.1607 Records and reporting.

(a) *Record of placement on leave.* An agency must maintain an accurate record of the placement of an employee on weather and safety leave.

(b) *Reporting.* In agency data systems (including timekeeping systems) and in data reports submitted to OPM, an agency must record weather and safety leave under section 6329c and this subpart as a category of leave separate from other types of leave.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 25 and 195

[Docket ID OCC–2017–0008]

RIN 1557–AE15

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Docket No. R–1574]

RIN 7100–AE84

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AE58

Community Reinvestment Act Regulations; Correction

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; correction.

SUMMARY: This document supplements and corrects the preamble of the final rule that was published in the **Federal Register** on November 24, 2017, entitled ''Community Reinvestment Act Regulations.''

DATES: Effective April 10, 2018 and applicable beginning January 1, 2018.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily R. Boyes, Attorney, Community and Consumer Law Division, (202) 649–6350; Allison Hester-Haddad, Counsel, Legislative and Regulatory Activities Division, (202) 649–5490; for persons who are deaf or hearing impaired, TTY, (202) 649–5597; or Vonda J. Eanes, Director for CRA and Fair Lending Policy, Compliance Risk Policy Division, (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, Division of Consumer and Community Affairs, (202) 912–7879; Cathy Gates, Senior Project Manager, Division of Consumer and Community Affairs, (202) 452–2099, Board of Governors of the Federal

Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–6859; Sharon B. Vejvoda, Senior Examination Specialist, Examination Branch, Division of Depositor and Consumer Protection, (202) 898–3881; Richard M. Schwartz, Counsel, Legal Division, (202) 898–7424; or Sherry Ann Betancourt, Counsel, Legal Division, (202) 898–6560, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

This document supplements and corrects the **SUPPLEMENTARY INFORMATION** section of the final rule entitled ''Community Reinvestment Act Regulations'' (the CRA final rule), published on November 24, 2017, **Federal Register** Document 2017–25330 (82 FR 55734), by the OCC, the Board, and the FDIC (collectively, the Agencies), by addressing two additional comments that were timely submitted but inadvertently not included in the rulemaking record of the CRA final rule. The sections of this correction document are effective as if they had been included in the **SUPPLEMENTARY INFORMATION** section of the CRA final rule, effective January 1, 2018.

II. Waiver of Proposed Rulemaking and Waiver of 30-day Delayed Effective Date

The Agencies ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). Nevertheless, an agency can waive this notice and comment procedure if it finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of its findings and reasons in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of a final rule after the date of its publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

The Agencies do not believe that this correction document constitutes a rule that would be subject to APA notice and comment or delayed effective date requirements. The document corrects and supplements the Agencies' discussion of public comments in the **SUPPLEMENTARY INFORMATION** section of the CRA final rule and does not make any changes to the regulatory text in the CRA final rule or otherwise alter the CRA final rule's effect. As a result, this correction document is intended to ensure that the CRA final rule's **SUPPLEMENTARY INFORMATION** section accurately reflects the record of comments received and the Agencies' responses.

Moreover, even if the notice and comment and delayed effective date requirements applied to this rule, the Agencies find that there is good cause to waive those requirements because they are unnecessary as the CRA final rule had been previously subjected to the notice and comment procedures. As noted above, the Agencies are merely supplementing and correcting a discussion of public comments in the **SUPPLEMENTARY INFORMATION** section through this correction document. The Agencies are not making any changes to the regulatory text in the CRA final rule. Therefore, the Agencies find it unnecessary to undertake further notice and comment procedures with respect to this correction document.

III. Summary of Errors

In the **SUPPLEMENTARY INFORMATION** section of the CRA final rule, the Agencies discussed amendments to their Community Reinvestment Act (CRA) regulations. The Agencies referenced two public comments received in response to the Notice of Proposed Rulemaking for those amendments [1] and provided responses to those comments. However, due to an inadvertent clerical error, the Agencies did not become aware of two additional comment letters that were timely submitted until after the Agencies had finalized and issued the amendments.

After analyzing the two additional comment letters, the Agencies have determined that no changes to the regulatory text in the CRA final rule are necessary. However, the Agencies are revising the administrative record to include the correct number of public comments received, the analysis of all comments received, and the Agencies' responses to the comments.

IV. Correction of Errors

1. On page 55734, the third full paragraph in the third column is revised to read as follows:

''Together, the Agencies received four comment letters on the proposed amendments. One comment was from a community organization, two comment letters were from industry trade associations, and one comment was from a financial institution. Commenters generally supported the changes proposed by the Agencies, although each also raised concerns regarding certain aspects of the proposed rule and made other suggestions not related to the proposal. As explained below, the Agencies are finalizing the amendments as proposed.''

2. On page 55735, the second full paragraph in the third column (continued in the first column on page 55736) and the first full paragraph in the first column on page 55736 are revised, and one paragraph is added following them to read as follows:

''The Agencies received three comment letters addressing this proposed revision. Two of the commenters supported the Agencies' efforts to conform the definition of ''home mortgage loan'' in the Agencies' CRA regulations to the scope of reportable transactions in Regulation C; one commenter opposed it. Of the two commenters supporting the proposed amendments, a community organization noted that some banks expressed concern that including home equity products (closed-end home equity loans and open-end home equity lines of credit) in CRA evaluations could have the effect of lowering the overall percentage of home mortgage loans made to low- and moderate-income borrowers and suggested that the Agencies consider evaluating home equity lending separately from other types of home lending. This commenter also urged the Agencies to consider loan purchases separately from originations during the CRA evaluation. A trade association opposed the proposed amendment to the ''home mortgage loan'' definition. This commenter recommended that data related to home equity products not be included in the CRA reports provided to the Agencies and the Agencies' analysis of home mortgage loans for purposes of the CRA evaluation. The commenter suggested that the Agencies only consider home equity-related data at the option of the financial institution. The commenter stated that treating home equity products in the same manner as purchase money mortgages or other real estate-secured lending fails to address the significant differences in the availability and use of these products across different geographies and income.

[1] 82 FR 43910 (Sept. 20, 2017).

''The Agencies have considered all comments and are finalizing the amendment to the ''home mortgage loan'' definition as proposed. First, the commenter's suggestion to consider home mortgage loan purchases separately from loan originations would require a change to the lending test in the CRA regulations (12 CFR 25.22, 195.22, 228.22, and 345.22), which is beyond the scope of the proposed amendments. Second, excluding home equity loans and home equity lines of credit from the ''home mortgage loan'' definition would create an inconsistency between the CRA and HMDA regulations and a separate reporting requirement for CRA reporters that are also HMDA reporters. The change in the ''home mortgage loan'' definition does not require that the Agencies evaluate home mortgage loans with different purposes (*e.g.,* home purchase, refinance, home improvement) the same during the CRA evaluation. Instead, the Agencies note that, as with all aspects of an institution's CRA performance evaluation, the Agencies will consider the performance context of the financial institution when evaluating its performance related to home mortgage lending, including home equity products. The Agencies emphasize that performance context may include additional information to explain how various loan products may impact bank performance. The Agencies believe that the commenters' concerns can be addressed effectively through the supervisory process. Accordingly, the Agencies are finalizing the revised definition of ''home mortgage loan'' as proposed.

''As we stated in the proposed rule, the Agencies have relied on the scope of HMDA-reportable transactions to define ''home mortgage loan'' in the CRA regulations, in order to reduce burden on institutions by avoiding unnecessary costs and confusion, and have made conforming changes when the scope of HMDA-reportable transactions has changed, provided that the revised terms continue to meet the statutory purposes of the CRA. The Agencies are aware that the Bureau announced its intention to open a rulemaking to reconsider various aspects of the 2015 HMDA Rule in its December 21, 2017, Public Statement on Home Mortgage Disclosure Act Compliance, which is available at *https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-public-statement-home-mortgage-disclosure-act-compliance/.* The Agencies will continue to review and monitor any new developments, including any amendments made to the cross-referenced definitions in HMDA and Regulation C that impact the CRA regulations, to ensure that such cross-referenced terms continue to meet the statutory objectives of the CRA.''

3. On page 55736, the first and second full paragraphs in the second column are revised and two paragraphs are added following them to read as follows:

''The Agencies received three comments addressing the proposed revision. These commenters supported amending the definition of ''consumer lending'' in the Agencies' CRA regulations to conform to changes in the scope of loans reportable under Regulation C, which will be effective January 1, 2018, but made additional suggestions, including some not related to the proposal. A trade association urged the Agencies to consider automatically home improvement loans not secured by a dwelling if the financial institution opts to have them considered. This commenter also suggested that if the financial institution opts not to have such loans considered, then the Agencies should not require the institution to produce data on those loans for CRA evaluation. A community organization suggested that the Agencies should have examiners evaluate consumer lending, including home improvement lending not secured by a dwelling, during CRA exams when such lending constitutes a ''significant amount'' of the bank's business rather than a ''substantial majority,'' as is currently required under 12 CFR __ .22(a)(1). Another trade association encouraged the Agencies to create a fifth category under the ''consumer loan'' definition to take the place of the ''home equity loan'' category, which the Agencies proposed to remove as a result of home equity loans and home equity lines of credit being included in the amended definition of ''home mortgage loan.''

''The Agencies have considered the comments and are finalizing the definition of ''consumer lending'' as proposed. First, the commenters' suggestions to defer always to the financial institution on the inclusion of unsecured home improvement loans and to change ''substantial majority'' to ''significant amount'' would require a change to the CRA regulations beyond the scope of the proposed amendments. Specifically, consumer loans are considered in the large bank lending test under 12 CFR __.22(a)(1) under two circumstances: ''if the bank has collected and maintained [data], as required under 12 CFR __.42(c)(1), and elects to have those loans considered'' or ''[i]f consumer lending constitutes a substantial majority of a bank's business.'' 12 CFR __.22(a)(1). Thus, in the case of financial institutions evaluated under the large bank lending test, following these commenters' recommendations would require a regulatory change in the retail lending test under 12 CFR __.22(a)(1), which was not proposed.

''Further, in regard to the commenter's suggestion to use ''significant amount'' instead of ''substantial majority,'' loan products evaluated in the small and intermediate small bank tests are generally based on the financial institution's major product lines, or primary products, whichever term applies depending on the supervising agency. The categorization of consumer loans by type applies solely to financial institutions evaluated using the large bank lending test. The selection of major product lines, or primary products, for small and intermediate small banks typically involves a review of loan originations during the evaluation period, by loan type, along with a discussion with bank management to understand the bank's business focus. As a result, examiners already may include or exclude home improvement loans in evaluating bank performance if they are not a major product line, or primary product, as applicable.

''Second, the Agencies do not believe that creating a fifth, ''home improvement,'' category of consumer loans is warranted given the flexibility already provided through the supervisory process. Additionally, creating a separate ''home improvement loan'' category of consumer loans could result in additional burden for many financial institutions, particularly community banks, through the separate tracking of loans and could result in a double counting of loans, under HMDA and CRA, for home improvement purposes that are secured by a dwelling. For these reasons, the Agencies opted to consider home improvement loans not secured by a dwelling included in evaluating performance under the large bank lending test under the existing consumer loan categories of ''other secured'' and ''other unsecured,'' rather than to create a new category of consumer loans. Accordingly, the Agencies are finalizing the definition of ''consumer lending'' as proposed. We note, however, that although the Agencies are not adopting changes pursuant to the commenters' recommendations, the Agencies regularly review examination policies, procedures, guidance, and the CRA

regulations to better serve the goals of the CRA.''

4. On page 55736, the first full paragraph in the third column is revised to read as follows:

''The Agencies received two comments on the proposed changes to the CRA public file content requirements. One trade association supported the Agencies' efforts to streamline the public file content requirements to make it consistent with the new HMDA public disclosure requirements. Another trade association suggested that because financial institutions will no longer need to provide HMDA Loan Application Registers to the public, financial institutions should also not be required to produce their CRA Loan Application Registers (CRA LARs) so as to reduce regulatory burden. Changing the requirements in the CRA public file with respect to CRA LARs would require a regulation change that was not proposed by the Agencies and did not have the benefit of notice and comment. Accordingly, the Agencies are adopting the revisions as proposed.''

Dated: March 30, 2018.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, March 13, 2018.

Ann E. Misback,

Secretary of the Board.

Dated at Washington, DC, this 12th of March, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–06963 Filed 4–9–18; 8:45 am]

BILLING CODE 4810–33; 6210–01; 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2018–0293; Special Conditions No. 25–723–SC]

Special Conditions: Textron Aviation Inc. Model 700 Series Airplanes; Interaction of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Aviation Inc. (Textron) Model 700 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are systems that affect structural performance, either directly or as a result of a failure or malfunction. The influence of these systems and their failure conditions must be taken into account when showing compliance with the FAA's requirements. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron Aviation Inc. on April 10, 2018. Send comments on or before May 25, 2018.

ADDRESSES: Send comments identified by Docket No. FAA–2018–0293 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Schneider, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone 206–231–3213; email *Greg.Schneider@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions previously has been published in the **Federal Register** for public comment. These special conditions have been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and finds that, for the same reason, good cause exists for adopting these special conditions upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On November 20, 2014, Textron applied for a type certificate for their new Model 700 series airplanes. The Textron Model 700 series airplanes are transport-category, twin turbofan-powered airplanes with standard seating provisions for up to 12 passengers and 2 crewmembers, and a maximum takeoff weight of 39,500 lbs.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.17, Textron must show that the Model 700 series airplanes meet the applicable provisions of part 25, as amended by amendments 25–1 through 25–141.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model 700 series airplanes because of novel or unusual design features, special conditions are

prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design features, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model 700 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17.

Novel or Unusual Design Features

The Textron Model 700 series airplanes will incorporate the following novel or unusual design features:

These airplanes are equipped with systems (*i.e.* with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, fuel management systems, etc.) that, directly or as a result of failure or malfunction, affect its structural performance.

Discussion

Current regulations do not take into account the effects of systems on structural performance including normal operation and failure conditions. Special conditions are needed to account for these features. These special conditions define criteria to be used in the assessment of the effects of these systems on structures. The general approach of accounting for the effect of system failures on structural performance is extended to include any system in which partial or complete failure, alone or in combination with other system partial or complete failures, would affect structural performance.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Textron Model 700 series airplanes. Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Aviation Inc. Model 700 series airplanes.

Interaction of Systems and Structures

For airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, the influence of these systems and their failure conditions must be taken into account when showing compliance with the requirements of title 14, Code of Federal Regulations (14 CFR) part 25, subpart C and D.

The following criteria must be used for showing compliance with these special conditions for airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, fuel management systems, and other systems that either directly, or as a result of failure or malfunction, affect structural performance. If these special conditions are used for other systems, it may be necessary to adapt the criteria to the specific system.

1. The criteria defined herein only addresses the direct structural consequences of the system responses and performances and cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. These criteria may, in some instances, duplicate standards already established for this evaluation. These criteria are only applicable to structures whose failure could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements when operating in the system degraded or inoperative mode are not provided in these special conditions.

2. Depending upon the specific characteristics of the airplane, additional studies may be required that go beyond the criteria provided in these special conditions in order to demonstrate the capability of the airplane to meet other realistic conditions, such as alternative gust or maneuver descriptions for an airplane equipped with a load alleviation system.

3. The following definitions are applicable to these special conditions:

a. *Structural performance:* Capability of the airplane to meet the structural requirements of 14 CFR part 25.

b. *Flight limitations:* Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (*e.g.,* speed limitations, avoidance of severe weather conditions, etc.).

c. *Operational limitations:* Limitations, including flight limitations that can be applied to the airplane operating conditions before dispatch (*e.g.,* fuel, payload and Master Minimum Equipment List limitations).

d. *Probabilistic terms:* The probabilistic terms (probable, improbable, extremely improbable) used in these special conditions are the same as those used in § 25.1309.

e. *Failure condition:* The term failure condition is the same as that used in § 25.1309, however these special conditions apply only to system failure conditions that affect the structural performance of the airplane (*e.g.,* system failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins).

4. General. The following criteria will be used in determining the influence of a system and its failure conditions on the airplane structure.

5. System fully operative. With the system fully operative, the following apply:

a. Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in 14 CFR part 25, subpart C (or defined by special condition or equivalent level of safety in lieu of those specified in part 25, subpart C), taking into account any special behavior of such a system or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds or any other system nonlinearities) must be accounted for in a realistic or

conservative way when deriving limit loads from limit conditions.

b. The airplane must meet the strength requirements of 14 CFR part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

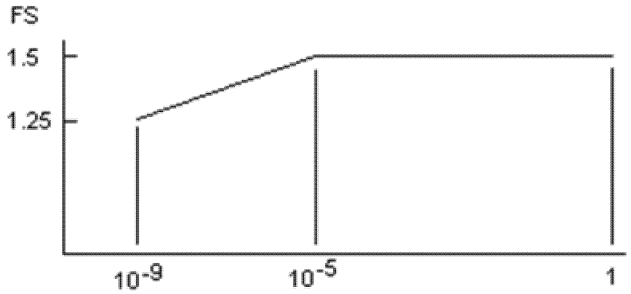
c. The airplane must meet the aeroelastic stability requirements of § 25.629.

6. System in the failure condition. For any system failure condition not shown to be extremely improbable, the following apply:

a. At the time of occurrence. Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

i. For static strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety (FS) is defined in Figure 1.

Figure 1
Factor of safety at the time of occurrence



Pj – Probability of occurrence of failure condition j (per hour)

ii. For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in subparagraph (6)(a)(i). For pressurized cabins, these loads must be combined with the normal operating differential pressure.

iii. Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speeds beyond V_C/M_C, freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

iv. Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in detrimental deformation of primary structure.

b. For the continuation of the flight. For the airplane, in the system failed state and considering any appropriate reconfiguration and flight limitations, the following apply:

i. The loads derived from the following conditions (or defined by special condition or equivalent level of safety in lieu of the following conditions) at speeds up to V_C/M_C, or the speed limitation prescribed for the remainder of the flight, must be determined:

(1) The limit symmetrical maneuvering conditions specified in § 25.331 and in § 25.345.

(2) the limit gust and turbulence conditions specified in § 25.341 and in § 25.345.

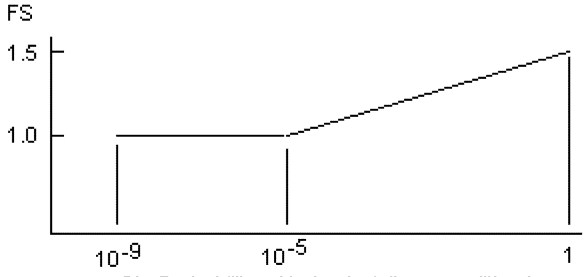
(3) the limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(4) the limit yaw maneuvering conditions specified in § 25.351.

(5) the limit ground loading conditions specified in §§ 25.473, 25.491, 25.493(d) and 25.503.

ii. For static strength substantiation, each part of the structure must be able to withstand the loads in paragraph (6)(b)(i) of the special condition multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of safety for continuation of flight



Qj - Probability of being in failure condition j

$Q_j = (T_j)(P_j)$

Where:

T_j = Average time spent in failure condition j (in hours)

P_j = Probability of occurrence of failure mode j (per hour)

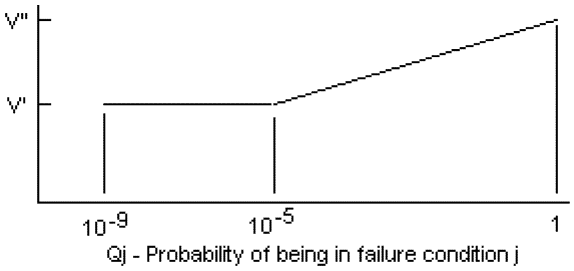
Note: If P_j is greater than 10^{-3} per flight hour then a 1.5 factor of safety must be applied to all limit load conditions specified in Subpart C.

iii. For residual strength substantiation, the airplane must be able to withstand two thirds of the ultimate loads defined in paragraph (6)(b)(ii) of the special condition. For pressurized cabins, these loads must be combined with the normal operating differential pressure.

iv. If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance then their effects must be taken into account.

v. Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter clearance speeds V′ and V″ may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3
Clearance speed



V′ = Clearance speed as defined by § 25.629(b)(2).

V″ = Clearance speed as defined by § 25.629(b)(1).

Qj = (Tj)(Pj) where:

Tj = Average time spent in failure condition j (in hours)

Pj = Probability of occurrence of failure mode j (per hour)

Note: If Pj is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V″.

vi. Freedom from aeroelastic instability must also be shown up to V′ in Figure 3 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

c. Consideration of certain failure conditions may be required by other sections of 14 CFR part 25 regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9} per flight hour, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

7. Failure indications. For system failure detection and indication, the following apply:

a. The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. As far as reasonably practicable, the flight crew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of detection and indication systems to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal detection and indication systems and where service history shows that inspections will provide an adequate level of safety.

b. The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flight crew. For example, failure conditions that result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, subpart C, below 1.25, or flutter margins below V″, must be signaled to the crew during flight.

8. Dispatch with known failure conditions. If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met, including the provisions of paragraph (5) for the dispatched condition, and paragraph (6) for subsequent failures. Expected operational limitations may be taken into account in establishing Pj as the probability of failure occurrence for determining the safety margin in Figure 1. Flight limitations and expected operational limitations may be taken into account in establishing Qj as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state and then subsequently encountering limit load conditions is extremely improbable. No reduction in these safety margins is allowed if the subsequent system failure rate is greater than 10^{-3} per flight hour.

Issued in Des Moines, Washington.

Victor Wicklund,

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

[FR Doc. 2018–07277 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2018–0247; Special Conditions No. 25–721–SC]

Special Conditions: Textron Aviation Inc. Model 700 Series Airplanes; Side-Facing Seats—Installation of Airbag Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Aviation Inc. (Textron), Model 700 series airplanes that feature an inflatable airbag system on multiple-place and single-place side-facing seats (*i.e.,* seats positioned in the airplane with the occupant facing 90 degrees to the direction of airplane travel). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron Aviation Inc. on April 10, 2018. Send comments on or before May 25, 2018.

ADDRESSES: Send comments identified by Docket No. FAA–2018–0247 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Aircraft Certification Service, 2200 South 216th St., Des Moines, Washington 98198–6547, telephone 206–231–3215, email *Alan.Sinclair@faa.gov*.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is unnecessary because the substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. The FAA therefore has determined that prior public notice and comment are unnecessary, and finds that, for the same reason, good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On November 20, 2014, Textron applied for a type certificate for the Textron Model 700 series airplanes. The Textron Model 700 series airplanes are low-wing, executive jet airplanes with seating provisions for 2 crewmembers and up to 12 passengers. These airplanes will have a maximum takeoff weight of 38,514 lbs.

Textron's proposed passenger seating arrangement(s) include a baseline 9-place and an optional 8-place and 10-place configuration. The baseline configuration includes a forward right hand belted single-place side-facing seat. An optional 10-place seat configuration includes a left hand, aft-belted, three-place side-facing couch. The multiple-place and single-place side-facing seats can be occupied for taxi, takeoff, and landing, and incorporate an inflatable airbag occupant protection system integrated into the side-facing seats. The FAA determined that inflatable airbag systems are a novel or unusual design feature and the existing airworthiness regulations do not provide adequate or appropriate safety standards.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.17, Textron must show that the Textron Model 700 series airplanes meet the applicable provisions of part 25, as amended by Amendments 25–1 through 25–141.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model 700 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model 700 series airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Textron Model 700 series airplanes will incorporate the following novel or unusual design feature:

An inflatable airbag system on multiple-place and single-place side-facing seats installed in Textron Model 700 series airplanes, in order to reduce the potential for both head and leg injury in the event of an accident.

Discussion

Side-facing seats are considered a novel design for transport category airplanes that include §§ 25.562 and 25.785 at Amendment 25–64 in their certification basis, and were not considered when those airworthiness standards were issued. The FAA has determined that the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. To provide a level of safety

that is equivalent to that afforded to occupants of forward- and aft-facing seats, additional airworthiness standards in the form of special conditions are necessary.

On June 16, 1988, 14 CFR part 25 was amended by Amendment 25–64 to revise the emergency-landing conditions that must be considered in the design of transport category airplanes. Amendment 25–64 revised the static-load conditions in § 25.561, and added a new § 25.562 that required dynamic testing for all seats approved for occupancy during takeoff and landing. The intent of Amendment 25–64 was to provide an improved level of safety for occupants on transport category airplanes. However, because most seating on transport category airplanes is forward-facing, the pass/fail criteria developed in Amendment 25–64 focused primarily on these seats. For some time, the FAA granted exemptions for the multiple-place side-facing-seat installations because the existing test methods and acceptance criteria did not produce a level of safety equivalent to the level of safety provided for forward- and aft-facing seats. These exemptions were subject to many conditions that reflected the injury-evaluation criteria and mitigation strategies available at the time of the exemption issuance.

The FAA also issued special conditions to address single-place side-facing seats based on the data available at the time the FAA issued those special conditions. Continuing concerns regarding the safety of side-facing seats prompted the FAA to conduct research to develop an acceptable method of compliance with §§ 25.562 and 25.785(b) for side-facing seat installations. That research has identified injury considerations and evaluation criteria in addition to those previously used to approve side-facing seats (see published report DOT/FAA/AR–09/41, July 2011).

One particular concern that was identified during the FAA's research program, but not addressed in the previous special conditions, was the significant leg injuries that can occur to occupants of both single- and multiple-place side-facing seats. Because this type of injury does not occur on forward- and aft-facing seats, the FAA determined that, to achieve the level of safety envisioned in Amendment 25–64, additional requirements would be needed as compared to previously issued special conditions. Nonetheless, the research has now allowed the development of a single set of special conditions that is applicable to all fully side-facing seats.

On November 5, 2012, the FAA released Policy Statement PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats,'' to update existing FAA certification policy on §§ 25.562 and 25.785(a) at Amendment 25–64 for single- and multiple-place side-facing seats. This policy addresses both the technical criteria for approving side-facing seats and the implementation of those criteria. The FAA methodology detailed in Policy Statement PS–ANM–25–03–R1 was used to establish a new set of proposed special conditions that incorporated conditions for exemptions developed prior to the policy and included in these new special conditions, others that reflect current research findings specifically for neck and leg protection. We have frequently issued these new special conditions for airbag systems in the shoulder belts. While the Textron design integrate the airbag systems into the side-facing seats that deploy from a different location then the shoulder belts, the airbag will inflate at the same locations as those in the shoulder belts. Therefore, the FAA is using the same special conditions as for airbag systems in shoulder belts for this Textron design as the airbag system functions the same.

In Policy Statement PS–ANM–25–03–R1, conditions 1 and 2 are applicable to all side-facing seat installations, whereas conditions 3 through 16 represent additional requirements applicable to side-facing seats equipped with an airbag system in the shoulder belt. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Textron Model 700 series airplanes Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis.

In addition to the requirements of §§ 25.562 and 25.785, the following special condition numbers 1 and 2 are part of the type certification basis of the Textron Model 700 series airplanes with side-facing seat installations. For seat places equipped with airbag systems, additional special condition numbers 3 through 16 are part of the type certification basis.

1. Additional requirements applicable to tests or rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. The longitudinal test(s) conducted in accordance with § 25.562(b)(2) to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions must have an ES–2re anthropomorphic test dummy (ATD) (49 CFR part 572, subpart U) or equivalent, or a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent, occupying each seat position and including all items contactable by the occupant (*e.g.,* armrest, interior wall, or furnishing) if those items are necessary to restrain the occupant. If included, the floor representation and contactable items must be located such that their relative position, with respect to the center of the nearest seat place, is the same at the start of the test as before floor misalignment is applied. For example, if floor misalignment rotates the centerline of the seat place nearest the contactable item 8 degrees clockwise about the airplane x-axis, then the item and floor representations must be rotated by 8 degrees clockwise also to maintain the same relative position to the seat place, as shown in Figure 1. Each ATD's relative position to the seat after application of floor misalignment must be the same as before misalignment is applied. To ensure proper loading of the seat by the occupants, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis and shoulder of the ATD until rebound begins. No injury-criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

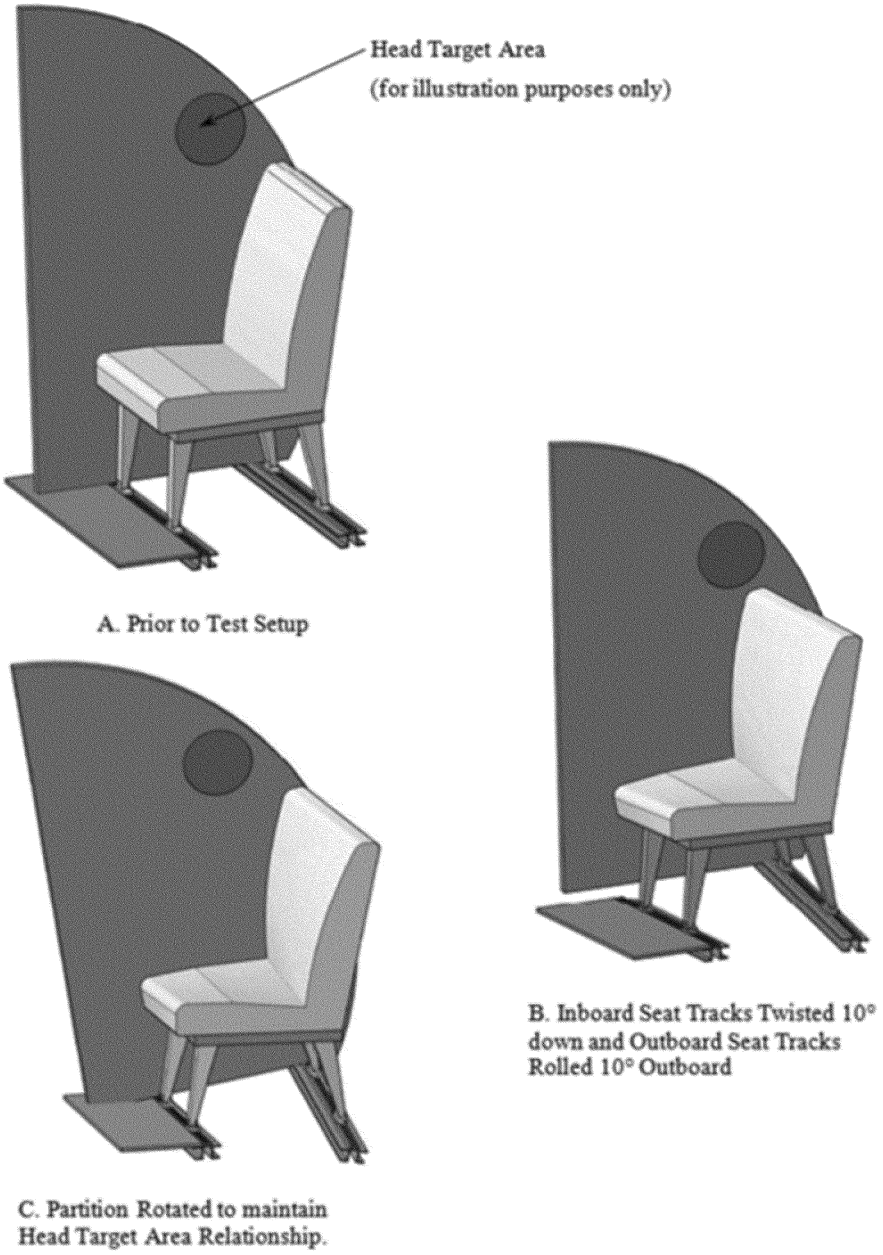


Figure 1: Head Target Areas Relative to Seat Position

b. The longitudinal test(s) conducted in accordance with § 25.562(b)(2), to show compliance with the injury assessments required by § 25.562(c) and these special conditions, may be conducted separately from the test(s) to show structural integrity. In this case, structural-assessment tests must be conducted as specified in paragraph 1a, above, and the injury-assessment test must be conducted without yaw or floor misalignment. Injury assessments may be accomplished by testing with ES–2re ATD (49 CFR part 572, subpart U) or equivalent at all places. Alternatively, these assessments may be accomplished by multiple tests that use an ES–2re at the seat place being evaluated, and a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent used in all seat places forward of the one being assessed, to evaluate occupant interaction. In this case, seat places aft of the one being assessed may be unoccupied. If a seat installation includes adjacent items that are contactable by the occupant, the injury potential of that contact must be assessed. To make this assessment, tests may be conducted that include the actual item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed by a combination of tests with items having the same geometry as the actual item, but having stiffness characteristics that would create the worst case for injury (injuries due to both contact with the item and lack of support from the item).

c. If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not have a homogeneous surface contactable by the occupant, additional analysis and/or test(s) may be required to demonstrate that the injury criteria are met for the area which an occupant could contact. For example, different yaw angles could result in different injury considerations and may require additional analysis or separate test(s) to evaluate.

d. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), the surface of items contactable by the occupant must be homogenous 7.3 inches (185 mm) above and 7.9 inches (200 mm) below the point (center of area) that is contacted by the 50th percentile male size ATD's head during the longitudinal test(s) conducted in accordance with paragraphs 1a, 1b, and 1c, of these special conditions. Otherwise, additional head-injury criteria (HIC) assessment tests may be necessary. Any surface (inflatable or otherwise) that provides support for the occupant of any seat place must provide that support in a consistent manner regardless of occupant stature. For example, if an inflatable shoulder belt is used to mitigate injury risk, then it must be demonstrated by inspection to bear against the range of occupants in a similar manner before and after inflation. Likewise, the means of limiting lower-leg flail must be demonstrated by inspection to provide protection for the range of occupants in a similar manner.

e. For longitudinal test(s) conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

i. *ATD positioning:*

(1) Lower the ATD vertically into the seat while simultaneously (see Figure 2 for illustration):

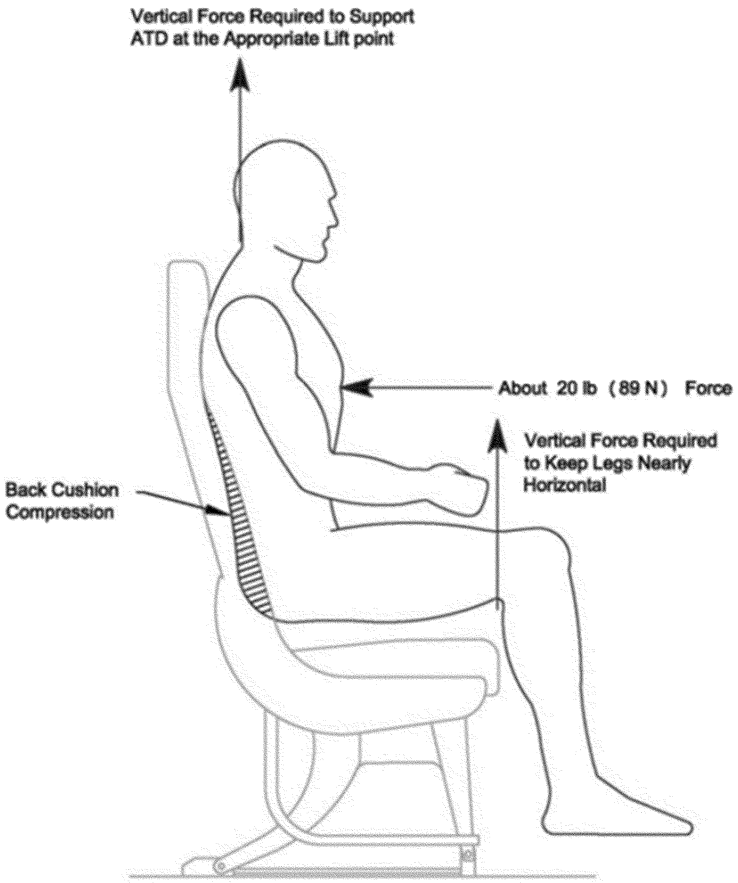


Figure 2: ATD Positioning

(a) Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

(b) Applying a horizontal x-axis direction (in the ATD coordinate system) force of about 20 lbs. (89 N) to the torso at approximately the intersection of the midsagittal plane and the bottom rib of the ES–2re or lower sternum of the Hybrid-II at the midsagittal plane, to compress the seat back cushion.

(c) Keeping the upper legs nearly horizontal by supporting them just behind the knees.

(2) Once all lifting devices have been removed from the ATD:

Rock it slightly to settle it in the seat.

(a) Separate the knees by about 4 inches (100 mm).

(b) Set the ES–2re's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(c) Position the ES–2re's arms at the joint's mechanical detent that puts them at approximately a 40 degree angle with respect to the torso. Position the Hybrid-II ATD hands on top of its upper legs.

(d) Position the feet such that the centerlines of the lower legs are approximately parallel to a lateral vertical plane (in the aircraft coordinate system).

ii. *ATD clothing:* Clothe each ATD in form-fitting, mid-calf-length (minimum) pants and shoes (size 11E) weighing about 2.5 lbs. (1.1 Kg) total. The color of the clothing should be in contrast to the color of the restraint system. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition if desired.

iii. *ES–2re ATD lateral instrumentation:* The rib-module linear slides are directional, *i.e.,* deflection occurs in either a positive or negative ATD y-axis direction. The modules must be installed such that the moving end of the rib module is toward the front of the aircraft. The three abdominal-force sensors must be installed such that they are on the side of the ATD toward the front of the aircraft.

f. The combined horizontal/vertical test, required by § 25.562(b)(1) and these special conditions, must be conducted with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562), or equivalent, occupying each seat position.

g. Restraint systems:

i. If inflatable restraint systems are used, they must be active during all dynamic tests conducted to show compliance with § 25.562.

ii. The design and installation of seat-belt buckles must prevent unbuckling due to applied inertial forces or impact of the hands/arms of the occupant during an emergency landing.

2. Additional performance measures applicable to tests and rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. *Body-to-body contact:* Contact between the head, pelvis, torso, or shoulder area of one ATD with the adjacent-seated ATD's head, pelvis, torso, or shoulder area is not allowed. Contact during rebound is allowed.

b. *Thoracic:* The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Data must be processed as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214.

c. *Abdominal:* The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs. (2,500 N). Data must be processed as defined in FMVSS 571.214.

d. *Pelvic:* The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs. (6,000 N). Data must be processed as defined in FMVSS 571.214.

e. *Leg:* Axial rotation of the upper-leg (femur) must be limited to 35 degrees in either direction from the nominal seated position.

f. *Neck:*

As measured by the ES–2re ATD and filtered at CFC 600 as defined in SAE J211:

i. The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lbs. (1,800 N).

ii. The upper-neck compression force at the O.C. location must be less than 405 lbs. (1,800 N).

iii. The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in lbs. (115 Nm).

iv. The upper-neck resultant shear force at the O.C. location must be less than 186 lbs. (825 N).

g. *Occupant (ES–2re ATD) retention:* The pelvic restraint must remain on the ES–2re ATD's pelvis during the impact and rebound phases of the test. The upper-torso restraint straps (if present) must remain on the ATD's shoulder during the impact.

h. *Occupant (ES–2re ATD) support:*

i. *Pelvis excursion:* The load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of its seat's bottom seat-cushion supporting structure.

ii. *Upper-torso support:* The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright position during the impact.

3. For seats with an airbag system, show that the airbag system will deploy and provide protection under crash conditions where it is necessary to prevent serious injury. The means of protection must take into consideration a range of stature from a 2-year-old child to 95th percentile male. The airbag system must provide a consistent approach to energy absorption throughout that range of occupants. When the seat systems include airbag systems, the systems must be included in each of the certification tests as they would be installed in the airplane. In addition, the following situations must be considered:

a. The seat occupant is holding an infant.

b. The seat occupant is a pregnant woman.

4. The airbag systems must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system.

5. The design must prevent the airbag systems from being incorrectly installed, such that the airbag systems would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required injury protection.

6. It must be shown that the airbag system is not susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), and other operating and environment conditions (vibrations, moisture, etc.) likely to occur in service.

7. Deployment of the airbag system must not introduce injury mechanisms to the seated occupant or result in injuries that could impede rapid egress. This assessment should include an occupant whose belt is loosely fastened.

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

9. It must be shown that the airbag system will not impede rapid egress of occupants 10 seconds after airbag deployment.

10. The airbag systems must be protected from lightning and high-intensity radiated fields (HIRF). The threats to the airplane specified in existing regulations regarding lightning, § 25.1316, and HIRF, § 25.1317, are incorporated by reference for the purpose of measuring lightning and HIRF protection.

11. The airbag system must function properly after loss of normal aircraft electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the airbag systems does not have to be considered.

12. It must be shown that the airbag system will not release hazardous quantities of gas or particulate matter into the cabin.

13. The airbag system installations must be protected from the effects of fire such that no hazard to occupants will result.

14. A means must be available for a crew member to verify the integrity of the airbag activation system prior to each flight or it must be demonstrated to reliably operate between inspection intervals. The FAA considers that the loss of the airbag system deployment function alone (*i.e.,* independent of the conditional event that requires the airbag system deployment) is a major-failure condition.

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

16. The airbag system, once deployed, must not adversely affect the emergency lighting system (*e.g.,* block floor proximity lights to the extent that the lights no longer meet their intended function).

Issued in Des Moines, Washington.

Victor Wicklund,

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

[FR Doc. 2018–07278 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1120; Product Identifier 2017–CE–030–AD; Amendment 39–19244; AD 2018–07–13]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Textron Aviation Inc. Models 510, 680, and 680A airplanes equipped with certain part number brake assemblies. This AD was prompted by a report that brake pad wear indicator pins were set incorrectly, which could lead to brake pad wear beyond the acceptable limits without indication. This AD requires inspection of the brake pad wear indicator pins and replacement of the brake assembly if any pin is set incorrectly. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 15, 2018.

ADDRESSES: For service information identified in this final rule, contact Textron Aviation Inc., One Cessna Boulevard, P.O. Box 7704, Wichita, Kansas 67277; phone: 316–517–6215; email: *citationpubs@txtav.com;* internet: *https://support.cessna.com/custsupt/csupport/newlogin.jsp;* or UTC Aerospace Systems, Goodrich Corporation, 101 Waco Street, P.O. Box 340, Troy, Ohio 45373; phone: 937–339–3811; email: *awb.techpubs@utas.utc.com;* internet: *https://www.customers.utcaerospacesystems.com/.* You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1120.

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–2017–1120; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION: CONTACT ONE OF THE FOLLOWING:

- *For the Model 510:* David Enns, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4147; fax: 913–946–4107; email: *david.enns@faa.gov;* or
- *For the Models 680 and 680A:* Adam Hein, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4116; fax: 316–946–4107; email: *adam.hein@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Textron Aviation Inc. (Textron) Models 510, 680, and 680A airplanes equipped with brake assemblies, part numbers (P/Ns) 2–1706–1 and 2–1675–1, with certain serial numbers. The NPRM published in the **Federal Register** on December 11, 2017 (82 FR 58140). The NPRM was prompted by a report that brake pad wear indicator pins were set incorrectly, which could lead to brake pad wear beyond the acceptable limits without indication. Brakes overhauled by UTC may have wear indicator pins set longer than specified. UTC discovered this condition during their inspection of incoming brakes. This condition, if not corrected, could result in brake pad wear beyond the acceptable limits without indication and consequent loss of braking ability, which could lead to a runway excursion. We are issuing this AD to address the unsafe condition on these products.

Comments

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

Request Clarification for FAA-Approved Replacement Instructions

Mark Mitcheson of NetJets Aviation requested specifics on ''FAA-approved replacement instructions approved specifically for this AD.'' We infer he wants clarification of the intent of this statement.

We agree that the language quoted by the commenter and used in the NPRM was confusing. We intended to direct those responsible for complying with the requirements of the AD to the type certificate holder, in this case Textron Aviation Inc., to obtain the replacement instructions (*i.e.,* maintenance manuals) specific to the applicable airplane models affected by this AD.

We modified in this AD the language quoted by the commenter to more accurately reflect our intent.

Request Parts Installation Prohibition

Mark Mitcheson requested whether the AD should prohibit the installation of the affected parts.

We partially agree. We agree operators should avoid installing the affected part because parts that do not meet type design could introduce the unsafe condition onto the airplane. However, we disagree with adding a specific requirement to the AD prohibiting the installation of the affected part. This AD requires inspection of the installed affected parts, and, if an affected part is installed, the airplane will immediately be subject to the requirements of this AD.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed UTC Aerospace Systems Service Bulletin 2–1706–1–32–1, Revision 1, dated July 18, 2017; and UTC Aerospace Systems Service Bulletin 2–1675–32–2, Revision 1, dated July 18, 2017. For the applicable models, the service information identifies the affected serial number brake assemblies and describes procedures for inspecting the wear indicator pins. 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. These UTC service bulletins are included as attachments with the Textron service letters discussed in the Other Related Service Information paragraph.

Other Related Service Information

We also reviewed Textron Aviation Inc. Service Letters SL510–32–08, SL680–32–15, and SL680A–32–05, all dated July 21, 2017. For the applicable airplane models, these service letters direct the operators to use Goodrich Service Bulletins 2–1706–1–32–1 and 2–1675–32–2. However, the Goodrich Service Bulletins that the Textron Aviation Inc. Service Letters refer to and intend for operators to use are titled UTC Aerospace Systems Service Bulletin 2–1706–1–32–1, Revision 1, dated July 18, 2017; and UTC Aerospace Systems Service Bulletin 2–1675–32–2, Revision 1, dated July 18, 2017. The UTC Aerospace Systems service bulletins are included as attachments to the Textron service letters.

Costs of Compliance

We estimate that this AD affects 668 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
Inspection of the brake assembly wear indicator pins for Models 680 and 680A.	1 work-hour × $85 per hour = $85	Not applicable	$85	$31,790
Inspection of the brake assembly wear indicator pins for Model 510.	.5 work-hour × $85 per hour = $42.50	Not applicable	42.50	12,495

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the brake assembly for Models 680 and 680A.	8 work-hours × $85 per hour = $680	$106,164	$106,844
Replacement of the brake assembly for Model 510	3 work-hours × $85 per hour = $255	10,828	11,083

According to the manufacturer, 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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–07–13 Textron Aviation Inc.: Amendment 39–19244; Docket No. FAA–2017–1120; Product Identifier 2017–CE–030–AD.

(a) Effective Date

This AD is effective May 15, 2018.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to Textron Aviation Inc. (Textron) (type certificates previously held by Cessna Aircraft Company) Models 510, 680, and 680A airplanes, certificated in any category, with serial numbers listed in paragraphs (c)(1)(i) through (iii) of this AD and equipped with a brake assembly specified in paragraphs (c)(1)(i) through (iii) of this AD:

(i) For Model 510 airplanes, serial numbers (S/N) –0001 through –0479: Brake assembly part number (P/N) 2–1706–1 that has a serial number listed in table 1 of UTC Aerospace Systems (UTC) Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017;

(ii) Model 680 airplanes, S/Ns –0001 through –0349 and –0501 through –0570: Brake assembly P/N 2–1675–1 that has a serial number listed in table 1 of UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017; and

(iii) Model 680A airplanes, –0003 thru –0069 and –0071 thru –0089: Brake assembly P/N 2–1675–1 that has a serial number listed in table 1 of UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017.

(2) The UTC service bulletins are included as attachments to Textron Service Letters SL510–32–08, SL680–32–15, and SL680A–32–05, all dated July 21, 2017. However, you may also obtain the UTC service bulletins directly from UTC using the contact information found in paragraph (k)(2) of this AD.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by information received from UTC that brake pad wear indicator pins were set incorrectly. We are issuing this AD to detect and address wear indicator pins that were set at an incorrect length. The unsafe condition, if not addressed, could result in brake pad wear beyond the acceptable limits without indication and consequent loss of braking ability, which could lead to a runway excursion.

(f) Compliance

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

(g) Inspection

(1) For Model 510 airplanes: Within 75 landings after May 15, 2018 (the effective date of this AD) or within 90 days after May 15, 2018 (the effective date of this AD), whichever occurs first, inspect the brake pad wear indicator pins, P/N 2–1706–1, for correct length following the Accomplishment Instructions in UTC Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017.

(2) For Models 680 and 680A airplanes: Within 200 landings after May 15, 2018 (the effective date of this AD) or within 90 days after May 15, 2018 (the effective date of this AD), whichever occurs first, inspect the brake pad wear indicator pins, P/N 2–1675–1, for correct length following the Accomplishment Instructions in UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017.

(3) The compliance times in this AD are presented in landings. If you do not keep a record of the total number of landings, then multiply the total number of hours time-in-service (TIS) after the effective date by 0.85 for Model 510 airplanes and multiply the total number of hours TIS after the effective date by 0.73 for Models 680 and 680A airplanes to estimate the number of landings.

(4) UTC Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017, and UTC Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017, both contain a requirement to complete an attached form and return the form to UTC Aerospace Systems. This AD does not require completing the attached form and returning it to UTC Aerospace Systems.

(h) Replacement

If any brake pad wear indicator pin is found to have an incorrect length during the inspection required in paragraph (g) of this AD, before further flight, contact Textron Aviation, Inc. for replacement instructions that the FAA accepted for compliance with this AD. You may use the contact information listed in paragraph (l)(3) of this AD, as applicable.

(i) Special Flight Permit

We allow a special flight permit per 14 CFR 39.23 for the replacement of the brake assembly required in paragraph (h) of this AD provided the wear indicator pin length extends a minimum of 0.200 inches beyond the brake assembly housing with the brakes engaged.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the applicable person identified in paragraph (k)(1)(i) or (ii) of this AD.

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

(k) Related Information

(1) For more information about this AD, contact one of the following:

(i) For the Model 510: David Enns, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4147; fax: 913–946–4107; email: *david.enns@faa.gov;* or

(ii) For the Models 680 and 680A: Adam Hein, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4116; fax: 316–946–4107; email: *adam.hein@faa.gov.*

(2) You may review Textron Aviation Inc. Service Letters SL510–32–08, SL680–32–15, and SL680A–32–05, all dated July 21, 2017, for additional service information related to 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 the AD specifies otherwise.

(i) UTC Aerospace Systems Service Bulletin 2–1675–32–2, Revision 1, July 18, 2017.

(ii) UTC Aerospace Systems Service Bulletin 2–1706–1–32–1, Revision 1, July 18, 2017.

(3) For service information identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, P.O. Box 7704, Wichita, Kansas 67277; phone: 316–517–6215; email: *citationpubs@txtav.com;* internet: *https://support.cessna.com/custsupt/csupport/newlogin.jsp;* or UTC Aerospace Systems, Goodrich Corporation, 101 Waco Street, P.O. Box 340, Troy, Ohio 45373; phone: 937–339–3811; email: *awb.techpubs@utas.utc.com;* internet: *https://www.customers.utcaerospacesystems.com/.*

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(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 Kansas City, Missouri, on March 30, 2018.

Pat Mullen,

Acting Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–06951 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1119; Product Identifier 2017–CE–037–AD; Amendment 39–19241; AD 2018–07–10]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Embraer S.A. Models EMB–500 and EMB–505 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as improperly tied castle nuts on the aileron, rudder, and elevator trim tab (or autotab) attachment bolts. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 15, 2018.

ADDRESSES: You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1119; or in person at Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

For service information identified in this AD, contact Embraer S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, São José dos Campos—SP–12227–901, P.O. Box 36/2, Brasil; phone: +55 12 3927 1000; fax: +55 12 3927–2619; email: *phenom.reliability@embraer.com.br;* internet: *http://www.embraer.com.br/en-US/Pages/home.aspx.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for Docket No. FAA–2017–1119.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Embraer S.A. Models EMB–500 and EMB–505 airplanes. The NPRM was published in the **Federal Register** on December 4, 2017 (82 FR 57172). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> This [ANAC] AD results of a report of one airplane having improperly tied castle nut on the aileron, rudder and elevator trim tab (or autotab) attachment bolts. A disconnected surface may cause an increase in dynamic loads and probable flutter, which may cause structural failure and possible loss of control of the airplane.
>
> Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this [ANAC] AD in the indicated time limit without prior notice.

The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/document?D=FAA-2017-1119-0002.*

Comments

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

Request To Withdraw NPRM

Eduardo Cerdeira and Ricardo Hollerbach, both from Embraer S.A., commented that all of the affected airplanes have been inspected with no faults found; therefore, there is no need for the proposed AD. They state that, since the issuance of the original versions of the service information for the two affected fleets, Embraer S.A. has been in direct contact with all the applicable operators in the world to encourage them to accomplish the required inspections as soon as possible. Since the start of the inspections, the commenters state that the completion status has been provided to the FAA, as well as the aviation authorities of Europe (EASA), and Brazil (ANAC). As of December 6, 2017, they stated that all affected airplanes, as defined in the current service information, have been inspected with no faults found. Finally, the commenters provided tables showing each of the affected airplane serial numbers and the date on which the applicable service information was accomplished.

We don't agree with this comment. The FAA contacted Embraer. S.A. to obtain records to show that all airplanes were in compliance with the actions in this AD. Embraer S.A. informed the FAA that they were unable to provide such information. While the FAA appreciates the effort that the commenters went to in order to assure that the unsafe condition was addressed on the affected airplanes, our policy of not accepting assurance from a design approval holder that all products are in compliance as a reason to not issue an AD action requires us to move forward with the issuance of the final rule AD. Please note that the Action and Compliance paragraph within the FAA AD begins with the phrase ''unless already done'', which may apply in this case.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Embraer S.A. has issued PHENOM by Embraer Alert Service Bulletin 500–27–A026, Revision 1, dated October 6, 2017; and PHENOM by Embraer Alert Service Bulletin 505–27–A028, Revision 2, dated October 6, 2017. For the applicable models, the service information describes procedures for inspection of the aileron trim tab, rudder trim tab, and elevator trim tab, and, if required, application of torque and installation of a cotter pin. 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 of this AD.

Costs of Compliance

We estimate that this AD will affect 114 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $9,690, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $50, for a cost of $305 per product. We have no way of determining the number of products that may need these actions.

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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation 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 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.

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–2017–1119; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 AD:

2018–07–10 Embraer S.A.: Amendment 39–19241; Docket No. FAA–2017–1119; Product Identifier 2017–CE–037–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective May 15, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Models EMB–500 and EMB–505 airplanes, serial numbers 50000246, 50000267, 50000286, 50000289, 50000291, 50000299, 50000304, 50000305, 50000306, 50000310, 50000348, 50000359, 50000368, 50000370, 50000372, 50000376, 50000377, 50000378, 50000379, 50000380, 50500118, 50500122, 50500148, 50500151, 50500167, 50500176, 50500179, 50500185, 50500188, 50500191, 50500197, 50500203, 50500207, 50500209, 50500212, 50500214, 50500215, 50500219, 50500225, 50500226, 50500231, 50500242, 50500244, 50500246, 50500248, 50500250, 50500256, 50500260, 50500266, 50500273, 50500275, 50500277, 50500280, 50500282, 50500285, 50500287, 50500288, 50500289, 50500292, 50500293, 50500294, 50500296, 50500297, 50500298, 50500300, 50500302, 50500304, 50500306, 50500309, 50500311, 50500317, 50500318, 50500323, 50500328, 50500331, 50500333, 50500335, 50500338, 50500340, 50500344, 50500345, 50500348, 50500351, 50500357, 50500361, 50500362, 50500363, 50500364, 50500365, 50500367, 50500368, 50500371, 50500372, 50500379, 50500381, 50500382, 50500385, 50500386, 50500390, 50500391, 50500394, 50500395, 50500397, 50500398, 50500399, 50500400, 50500402, 50500403, 50500404, 50500407, 50500410, 50500415, 50500418, and 50500424, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as improperly tied castle nuts on the aileron, rudder and elevator trim tab (or autotab) attachment bolts. We are issuing this AD to inspect the aileron trim tab, rudder trim tab and elevator trim tab (or autotab), and correct any discrepancy, which if not corrected, may cause an increase in dynamic loads and possible flutter, leading to structural failure and loss of control.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (2) of this AD following the Accomplishment Instructions in PHENOM by Embraer Alert Service Bulletin (SB) No.: 500–27–A026, Revision 1, dated October 6, 2017; or PHENOM by Embraer Alert SB No.: 505–27–A028, Revision 2, dated October 6, 2017, as applicable:

(1) Within the next 25 hours time in service (TIS) after May 15, 2018 (the effective date of this AD) or within the next 12 months after May 15, 2018 (the effective date of this AD), whichever occurs first, inspect the aileron trim tab, rudder trim tab, and elevator trim tab attachment points to make sure the cotter pin is installed on the castle nut of the attaching bolts.

(2) If any discrepancy is found during the inspection required in paragraph (f)(1) of this AD, before further flight, correct the discrepancy.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD allows credit for the actions required in paragraph (f) of this AD if done before the effective date of this AD following PHENOM by Embraer Alert SB No. 500–27–A026, original issue, dated September 29, 2017; PHENOM by Embraer Alert SB No. 505–27–A028, original issue, dated September 28, 2017; or PHENOM by Embraer Alert SB 505–27–A028, Revision 01, dated September 29, 2017; as applicable.

(h) No Reporting Requirement

Although PHENOM by Embraer Alert SB No.: 500–27–A026, Revision 1, dated October 6, 2017; and PHENOM by Embraer Alert SB No.: 505–27–A028, Revision 2, dated October 6, 2017; specify to submit certain information to the manufacturer, this AD does not require that action.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, Small Airplane Standards Branch, FAA; or Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil.

(j) Related Information

Refer to MCAI Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, AD No.: 2017–11–01, dated November 10, 2017. You may examine the MCAI on the internet at: *https://www.regulations.gov/document?D=FAA-2017-1119-0002.*

(k) Material Incorporated by Reference

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

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

(i) PHENOM by Embraer Alert Service Bulletin No.: 500–27–A026, Revision 1, dated October 6, 2017.

(ii) PHENOM by Embraer Alert Service Bulletin No.: 505–27–A028, Revision 2, dated October 6, 2017.

(3) For Embraer S.A. service information identified in this AD, contact Embraer S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, São José dos Campos—SP–12227–901, P.O. Box 36/2, Brasil; phone: +55 12 3927 1000; fax: +55 12 3927–2619; email: *phenom.reliability@embraer.com.br;* internet: *http://www.embraer.com.br/en-US/Pages/home.aspx.*

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1119.

(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 Kansas City, Missouri, on March 28, 2018.

William Schinstock,

Acting Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2018–06821 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0033]

Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation; modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the CSX Swing Bridge, which carries CSX railroad across the New Curtis Creek, mile 1.4, at Baltimore, MD. This modified deviation is necessary to facilitate bridge maintenance. This modified deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This modified deviation is effective without actual notice from April 10, 2018 through 2:30 p.m. on April 13, 2018. For the purposes of enforcement, actual notice will be used from 2:31 p.m. on March 30, 2018, until April 10, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0033] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this modified temporary deviation, call or email Mr. Michael R. Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: On March 2, 2018, the Coast Guard published a temporary deviation entitled, ''Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD'' in the **Federal Register** (83 FR 8938). Subsequent to the that publication, CSX Corporation requested a modification, extending the temporary deviation from 2:31 p.m. on March 30, 2018, through 2:30 p.m. on April 13, 2018. This extension is necessary to provide more time to perform and complete the installation of railroad ties, due to extreme inclement weather which occurred during the previous temporary deviation. Therefore, the Coast Guard modifies the dates of the previously approved temporary deviation to allow the CSX Swing Bridge that carries CSX railroad across the Curtis Creek, mile 1.4, at Baltimore, MD, to remain in the closed-to-navigation position from 8 a.m. to 2:30 p.m., Monday through Friday, from March 5, 2018, through April 13, 2018. The bridge has a vertical clearance of 13 feet above mean high water in the closed position and unlimited clearance in the open position. The current operating schedule is set out in 33 CFR 117.5.

The Curtis Creek is used by a variety of vessels including U.S. government and public vessels, tug and barge traffic, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. The bridge will open on signal, if at least one hour notification is given. The bridge will be able to open for emergencies, if at least 15 minutes notification is given. The bridge may be contacted at (410) 354–5593 24 hours per day. There is no immediate alternative route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: April 5, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–07261 Filed 4–9–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0272]

Drawbridge Operation Regulation; Grassy Sound Channel, Middle Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Grassy Sound Channel (Ocean Drive) Bridge across Grassy Sound Channel, mile 1.0, at Middle Township, NJ. The deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 2018 ''MudHen Half Marathon''. This deviation allows the drawbridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 7:30 a.m. to 11 a.m. on April 29, 2018.

ADDRESSES: The docket for this deviation, [USCG–2018–0272], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Mickey Sanders, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6587, email *Mickey.D.Sanders2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The event director, DelMoSports LLC, with approval from the Cape May County Bridge Commission, who owns and operates the Grassy Sound Channel (Ocean Drive) Bridge, across Grassy Sound Channel, mile 1.0, at Middle Township, NJ, requested a temporary deviation from the current operating regulations to accommodate the free movement of pedestrians and vehicles during the 2018 ''MudHen Half Marathon''.

The current operating schedule is set out in 33 CFR 117.721. Under this temporary deviation, the drawbridge will be maintained in the closed-to-navigation position from 7:30 a.m. to 11 a.m. on April 29, 2018. The Grassy Sound Channel is used by a variety of vessels including small commercial vessels and recreational vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impacts caused by this temporary deviation.

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

Dated: April 5, 2018.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2018–07262 Filed 4–9–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AP14

Schedule for Rating Disabilities: The Organs of Special Sense and Schedule of Ratings—Eye

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is revising the portion of the VA Schedule for Rating Disabilities (VASRD or rating schedule) that addresses the organs of special sense and schedule of ratings—eye. The final rule incorporates medical advances that have occurred since the last review, updates current medical terminology, and provides clearer evaluation criteria.

DATES: This rule is effective on May 13, 2018.

FOR FURTHER INFORMATION CONTACT: Gary Reynolds, M.D., Medical Officer, Part 4 VASRD Staff (211C), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On June 9, 2015, VA published a proposed rule in the **Federal Register** at 80 FR 32513, suggesting changes to 38 CFR 4.77 through 4.79, the portion of the VASRD pertaining to the organs of special sense and schedule of ratings—eye. VA invited interested parties to submit comments on or before August 10, 2015. VA received five comments.

A. General Rating Formula for Eye Diseases

VA proposed several revisions to the General Rating Formula for Diseases of the Eye, including a new definition of incapacitating episodes that used the number of clinic visits required to treat active eye disease as a means of quantifying the level of disability. VA also proposed to apply the formula to more diagnostic codes (DCs).

Two comments regarding the proposed updates to the General Rating Formula, specifically regarding missing definitions, were received. One commenter asked for clarification of ''per year'' in regard to measuring the number of visits for medical treatment. VA appreciates the comment concerning how ''per year'' is defined, and will further clarify the relevant time period by substituting the phrase ''within the past twelve months'' for the phrase ''per year.'' The change of phrasing to ''within the past twelve months'' is consistent with VA's practice of assigning ''staged ratings'' where the evidence shows that different ratings are appropriate for distinct periods of time. *See Hart* v. *Mansfield,* 21 Vet. App. 505, 509 (2007) (citing *Fenderson* v. *West,* 12 Vet. App. 119, 126 (1999)). The same commenter asked why VA did not define ''active eye disease'' in the proposed rule. VA appreciates the comment, and for the reasons outlined below, will remove ''active eye disease'' as a term that requires definition.

The majority of the comments regarding the proposed updates, however, concerned the revision to ''incapacitating episodes.'' Two commenters did not agree with using the number of clinic visits to quantify the severity of incapacitating episodes, noting that many conditions are

severely disabling even though they may not require frequent visits to a medical professional. We note that the rating schedule already provides for ratings based on impairment of visual acuity, as well as other disabling features such as disfigurement. This new general rating formula provides an alternative basis for evaluating impairment of earning capacity where a veteran's functioning might be minimally impaired but where the eye condition causes lost work time due to treatment. In addition, these two particular comments cite conditions which would be more appropriately evaluated under criteria other than the general rating formula, as the general rating formula as proposed was directed toward active eye diseases, not conditions where the severity of visual impairment or disfigurement is relatively static. Other commenters expressed concern that the definition only considered the frequency of episodes, not the severity of each episode or of the actual disability itself. Another comment questioned the effect of the proposed definition of incapacitating episodes for eye conditions, noting that the same term was defined differently when applied to other body systems within the rating schedule. One commenter stated the use of clinician visits disadvantaged veterans without readily available access to specialty care. The purpose of the proposed rule was to provide evaluations based on the duration of treatment for an active eye disease. Treatment for an active eye disease is generally available to veterans, whether through VA, VA-authorized community care, or care from providers completely independent of VA. Additionally, we note that current rating criteria define an incapacitating episode in terms of acute symptoms requiring treatment, so any concern arising out of access to care would apply equally to current regulations.

After reviewing all of the comments pertaining to ''incapacitating episodes,'' and ''clinic visits,'' VA will further clarify how it will incorporate specified clinical visits to this body system. These visits are typically associated with time away from work (an earnings loss proxy) applicable to the definition of ''incapacitating episodes.'' See 38 U.S.C. 1155, 38 CFR 4.1 (stating that the purpose of the rating schedule is to represent the average impairment in earning capacity resulting from diseases and injuries in civil occupations).

The current definition for incapacitating episodes calls for acute symptoms that require prescribed bedrest and treatment by a provider. Evaluation is based on the total duration of incapacitating episodes. While prescribed bedrest may be an excellent proxy for earnings loss, modern medicine rarely, if ever, uses it for treatment.

The definition for incapacitating episodes in the proposed rule sought to use more quantifiable measures than the current regulation. It called for active eye disease that required a visit to a provider for treatment, monitoring, or management of complications related to the active eye disease. VA would base the evaluation on the number of clinic visits within a one-year period. While clinic visits provide an easily quantifiable and consistent metric, the correlation between clinic visits and impairment in earning capacity may be strong or weak depending on the purpose of the visits.

Based on the comments received, as well as the underlying intent for the changes in the proposed rule, VA believes that targeted modifications to the definition for ''incapacitating episodes'' and to the criteria in the General Rating Formula effectively address the concerns raised in the comments, as well as remain consistent with the intent of the proposed rule. First, VA will use Note (1) under the General Rating Formula to clarify that an incapacitating episode is ''an eye condition severe enough to require a clinic visit to a provider specifically for treatment purposes.'' This definition distinguishes between treatment visits and visits for other purposes. Treatment visits can typically require two to three days away from work to allow for recovery from the treatment, in addition to the time needed for the treatment visit itself. In contrast, a clinic visit for diagnostic, monitoring, or screening purposes would only require time away from work for the visit itself. The criteria are specifically designed to account for situations when a Veteran can have relatively normal function, but has to take extensive time off work due to the treatment program. Therefore, counting only treatment visits as opposed to all clinic visits provides a better proxy for average impairment in earning capacity because it has a stronger correlation to the impact on the ability to work. We will move the list of treatment examples found in the second sentence to Note (1) of proposed § 4.79 to Note (2) and renumber proposed § 4.79 Note (2) as Note (3).

The current criteria for the General Rating Formula base evaluations on the total number of days spent incapacitated within a 12-month period. The criteria in the proposed rule, on the other hand, bases evaluations on the number of clinic visits for treatment or monitoring of an active eye disease within a year. As VA is changing the criteria in the final rule to count only those clinic visits made for the purpose of treatment, VA will modify the number of visits required for all evaluations. The criteria will now read: For the 60 percent evaluation, ''With documented incapacitating episodes requiring 7 or more treatment visits for an eye condition during the past 12 months.'' The 40 percent evaluation will read, ''With documented incapacitating episodes requiring at least 5 but less than 7 treatment visits for an eye condition during the past 12 months.'' The 20 percent evaluation will read, ''With documented incapacitating episodes requiring at least 3 but less than 5 treatment visits for an eye condition during the past 12 months.'' Finally, the 10 percent evaluation will read, ''With documented incapacitating episodes requiring at least 1 but less than 3 treatment visits for an eye condition during the past 12 months.''

B. Organizational Changes

VA proposed organizing most of the DCs within § 4.79 under headings that reflected the part of the eye affected by ratable conditions. Two commenters supported these organizational changes. Other commenters recommended moving various diagnostic codes from one proposed category to another proposed category. VA thanks the commenters for their support and suggestions; however, VA has reconsidered this organizational change, noting that it would create more administrative complexity in rating by making it more difficult to locate the most appropriate DC for evaluation purposes. Therefore, VA is withdrawing the proposed organizational changes found in the proposed rule.

C. Application of Visual Impairment

One commenter suggested that the definition of visual impairment should be revised to include multiple images, ghosting, halos, starbursts, sensitivity to light, ability to drive at night or participate in low-light activities, and read a computer screen without eyestrain and headaches. VA disagrees with this proposal, as the symptoms noted are almost always accompanied by measurable changes in visual acuity, visual field defects or muscle function, all of which form the basis of the current definition of visual impairment under 38 CFR 4.75. If VA followed the commenter's suggestion, a Veteran could have a complete resolution of disability associated with visual acuity, visual fields, and/or muscle testing, but

still receive compensation for non-occupationally significant symptoms. Therefore, VA declines to make any changes based on this comment.

The same commenter also suggested that VA provide a minimum evaluation of 50 percent when the symptoms in the proposed definition affected a normal lifestyle. Section 1155 of title 38, United States Code, requires VA to base disability ratings, as far as practicable, on the average impairments of earnings capacity in civil occupations resulting from such injuries, and not on disruptions to lifestyle. See also 38 CFR 4.1. For this reason, VA is unable to make any changes based upon this comment.

Another commenter suggested that VA should not consider Goldmann charts and electronic medical records generated during treatment at a VA Blind Rehabilitation Center, VA eye clinic, or private provider when rating visual conditions, because such examinations are not created for VA rating purposes. The commenter stated that Goldmann charts at VA Blind Rehabilitation Centers are often marked as ''NOT FOR VA RATNG PURPOSES.'' However, electronic treatment records from a VA Blind Rehabilitation Center do not always include the notation. The commenter stated that Veterans may ''not want to risk a potential reduction in their VA disability rating'' if VA would use evidence generated by treatment for disability rating purposes. VA disagrees. Such marks on VA Blind Rehabilitation Center records indicate only that they were generated as part of a treatment program, not as a part of the VA disability claims process. The evidentiary standard has already been established in 38 CFR 4.77. If the VA Blind Rehabilitation examination or other eye examination meets the standard outlined in 38 CFR 4.77, then VA reserves the option to use the examination as evidence for rating purposes, consistent with the general legal requirement that VA consider all evidence of record. *See* 38 U.S.C. 5107(b), 38 CFR 3.303(a). Further, we disagree with the commenter's premise that VA should deliberately ignore relevant medical evidence for rating purposes on the theory that evidence showing improvement in a veteran's disability might warrant a reduction in disability rating. VA regulations already explicitly contemplate the possibility of a reduced rating in the event a veteran's condition improves. *See* 38 CFR 3.327.

D. Evaluations and Visual Acuity

One commenter stated that VA should evaluate visual disability based on uncorrected visual acuity, rather than corrected visual acuity. This commenter noted that this approach would be more equitable, as it is similar to the criteria used for auditory conditions (with evaluations based on the unaided hearing). VA disagrees with this recommendation as aural and visual disabilities are distinctly different. Medical interventions for auditory conditions typically preserve or improve residual function to an extent, but do not completely restore function. On the other hand, medical interventions for visual conditions may often completely restore function. For example, hearing aids typically amplify volume at a frequency identified with hearing loss, but the amplification fails to completely restore hearing and may amplify ambient noise, adding an aural confusion not previously present. In contrast, lenses and/or surgery for visual acuity may, in most cases, actually restore normal acuity. Also, hearing aids often cost significantly more than spectacles or contact lenses, so VA would not expect or require disabled individuals to routinely own and wear them to ameliorate that disability. The visually impaired are more readily tested and fitted with corrective devices (*e.g.,* eyeglasses or contact lenses) at far more facilities than the hearing impaired. Such significant differences in nature and treatment preclude VA from handling these two types of disabilities similarly. Therefore, VA declines to make any changes based on this comment.

Another commenter suggested developing rating requirements (providing a minimum rating) for visual conditions that cause a greater overall disability than a visual acuity test can properly record, and provided an example of a situation that focused mainly on quality of life issues. VA cannot make any changes based on this comment. As stated previously, Section 1155 of title 38, United States Code, requires VA to base disability ratings, as far as practicable, on the average impairment in earning capacity in civil occupations resulting from such diseases and injuries, and not on disruptions to lifestyle. See also 38 CFR 4.1. The example given by the commenter does not provide sufficient evidence of occupational impairment to support entitlement to the minimum rating proposed. VA will not make any changes to the final rule based on this comment.

E. Ability To Use Corrective Devices

One commenter noted that VA should consider the ability to wear corrective lenses for an entire workday, noting that some lenses cause pain. VA acknowledges that some individuals may tolerate corrective lenses better than others, but finds it impractical and unnecessary to incorporate this level of individual specificity into the evaluation criteria under DC 6035. VA notes that under 38 CFR 3.321, ratings are based upon average impairments of earning capacity as far as practicable. Under § 3.321, when an exceptional case renders the rating schedule inadequate, VA may consider an extra-schedular evaluation commensurate with the earnings loss due exclusively to the disability or disabilities. When evidence of marked interference with employment renders the regular rating schedule impractical, VA may assign an extraschedular evaluation. VA will not make any changes based on this comment.

F. Goldmann Charts

One commenter rejected VA's proposal to no longer require the use of a Goldmann chart for visual field and/or muscle function testing. The commenter stated that a Goldmann chart is critical to detecting errors in the administration of visual examinations and in application of the rating criteria. Contrary to the statements from the commenter, VA does not use a Goldmann chart to detect errors in the examination or rating process. VA can test visual field and muscle function using manual methods (a Goldmann bowl or a tangent screen) or through automated perimetry. The automated perimetry employs software to automatically produce measurements and populate them in both chart and table format. The manual method, on the other hand, requires the examiner to manually record the values (either in table or chart format). Regardless of the method of testing, the recording of data on a chart or table has no bearing on whether the actual test values are accurate. If the test values are inaccurate, VA must reexamine the condition. As such, VA proposed to remove the Goldmann chart requirement because the actual test values, not how they are plotted on the chart, determines the evaluation assigned. This allows a rating veterans service representative to evaluate disabilities based on the test results, regardless of the format in which those results are presented, as long as the information conforms to all other regulatory requirements. It is important to note that VA will continue to accept Goldmann charts as part of a claim for visual disability. Therefore, VA will not change the proposal to eliminate the Goldmann chart requirement in visual field and/or muscle function testing.

G. Specific Changes to DC 6035, Keratoconus

One commenter stated that VA should automatically consider headaches and/or migraines as secondary to keratoconus and automatically grant service connection for them. Section 3.310 states when VA may grant service connection for a disability that is proximately due, or secondary, to a service-connected disease or injury. When the evidence of record establishes such a secondary relationship between keratoconus and headaches and/or migraines, VA may service connect them. However, the numerous potential causes of headaches and migraines, including co-morbid conditions that are often unrelated to military service, preclude VA from automatically granting service connection on a secondary basis without sufficient evidence showing a proximate cause. Therefore, VA will not make any changes based upon this comment.

The same commenter recommended that VA assign a minimum 30 percent evaluation for veterans with keratoconus who receive a corneal transplant. The commenter noted that a corneal transplant limits participation in recreational activities unrelated to occupational performance. VA currently provides under DC 6036 a minimum 10 percent evaluation for veterans with corneal transplants, with pain, photophobia, and glare sensitivity, regardless of the underlying disability (including keratoconus). A 10 percent minimum evaluation recognizes that, in some cases, residual symptoms may present occupational impairment. Additionally, where further visual impairment is present, a higher evaluation may be warranted, to include a 30 percent evaluation. As noted above, VA disability evaluations must be based on average impairment in earnings capacity and cannot consider the effects of a disability upon lifestyle. 38 U.S.C. 1155, 38 CFR 4.1. Furthermore, VA believes that the current evaluation criteria for corneal transplant, including those performed to treat keratoconus, accurately compensate for residual disability which may interfere with occupational performance. Therefore, VA will not make any changes based on this comment.

H. Specific Changes to Proposed DC 6042, Retinal Dystrophy

One commenter proposed additional evaluation criteria for DC 6042, Retinal dystrophy, to include night blindness, glare sensitivity, loss of contrast sensitivity, loss of depth perception, and loss of color vision. VA disagrees with this proposal, as the symptoms noted are almost always accompanied by measurable changes in visual acuity, visual field defects, or muscle function, all of which form the current definition of visual impairment under 38 CFR 4.75. Additionally, as previously noted, VA may assign an extraschedular evaluation under 38 CFR 3.321 when evidence of marked interference with employment renders application of the regular rating schedule impractical. Therefore, VA will not make any changes based on this comment.

I. Miscellaneous Comments

One commenter stated that VA should broaden the requirements for rating visual acuity. This comment did not propose any specific requirements or alternative rating criteria to explain the suggested expansion. Without proposing an alternative rating criteria or clarifying how the requirements should be broadened, VA cannot consider revisions to the rating criteria based on this comment.

The same commenter stated that VA should provide a minimum evaluation to ensure that issues that are not being taken into account by the rating system are otherwise addressed. As previously noted, VA is required by 38 U.S.C. 1155 to base disability ratings, as far as practicable, on the average impairments of earnings capacity in civil occupations from such injuries. Current law does not allow VA to provide evaluations based on factors outside of earnings impairment. Therefore, VA is unable to make any changes based upon this comment.

One commenter suggested listing more disabilities to this portion of the rating schedule. The commenter specifically requested inclusion of wet macular degeneration, dry macular degeneration, early-onset macular degeneration, optic atrophy, and various classifications of dystrophy. VA notes that the criteria in DC 6042, Retinal dystrophy, sufficiently address the types of retinal dystrophy and other conditions noted by the commenter. However, in light of the comment, VA will amend the title of the DC to indicate additional types of dystrophy to which DC 6042 may apply.

The same commenter also suggested adding diagnostic codes for histoplasmosis, Stargardt's disease, and optic neuritis. Histoplasmosis is an infectious disease caused by inhalation of spores often found in bird and bat droppings. The symptoms include fever, chills, headache, muscle aches, dry cough, and chest discomfort. Histoplasmosis is caused by an infectious agent and produces no visual impairment and is therefore not appropriate for inclusion in the portion of the rating schedule pertaining to the eyes and visual impairment. Stargardt's disease, or Stargardt macular degeneration, is a genetic form of juvenile macular degeneration. By definition, the signs and symptoms of Stargardt's disease begin in childhood. When appropriate, VA can consider this condition as related to active military service when it is first diagnosed during active service or, if it existed prior to military service, the evidence establishes that military service aggravated the condition beyond its natural progression. 38 CFR 3.303(a), 3.306(a). VA notes that DC 6042, Retinal dystrophy, will include the additional clarifying changes noted above, and so adequately covers this category of disability. VA, therefore, makes no additional changes based on this suggestion. Meanwhile, optic neuritis is the inflammation of the optic nerve and is a sub-type of optic neuropathy, the general term for any damage of the optic nerve. VA notes that DC 6026, Optic neuropathy, adequately covers this category and sub-type of visual disability. Therefore, VA makes no additional changes based on this suggestion.

The same commenter suggested adding a minimum 10 percent evaluation under the General Rating Formula for any visual disability resulting in photophobia and glare sensitivity. VA appreciates this suggestion and notes that the rating schedule currently considers pain, photophobia, and glare sensitivity as productive of a minimum 10 percent evaluation when it is directly related to corneal transplant. 38 CFR 4.79, DC 6036. VA disagrees, however, with adding this criterion as the suggested minimum evaluation to the General Rating Formula for Diseases of the Eye. The minimum evaluation would then apply in cases where there is no clear association between the claimed photophobia and glare sensitivity and the specific visual disability subject to evaluation. As noted previously, VA can and will consider these signs/symptoms on a case-by-case basis when conducting an extraschedular review in accordance with § 3.321.

J. Technical Changes

Non-substantive changes to the rulemaking have been made to correct inaccuracies and/or unnecessary language in the final rule. In the proposed rule, several DCs included the instruction to evaluate under the General Rating Formula for Diseases of the Eye, without any alternative rating

criteria. However, this language is redundant in light of the instructions contained at the beginning of § 4.79, which specifically state to use the General Rating Formula for Diseases of the Eye unless otherwise instructed. Therefore, this redundant language has been removed from DCs 6026 and 6046. To further ensure that this general instruction is not missed, VA is moving this sentence outside of the rating table to immediately follow the section heading for § 4.79.

Additionally, the proposed rulemaking used the terms ''evaluate'' and ''rate'' interchangeably when indicating a disability should be evaluated in a certain manner. To maintain consistency and avoid any confusion, VA has amended the language to state ''evaluate'' wherever ''rate'' was previously used.

The text of the proposed rulemaking inadvertently omitted the portion of § 4.79 which covers evaluations based on impaired central visual acuity (DCs 6061 through 6066). VA has corrected this omission in the final rule and notes that it has not made any changes to this portion of § 4.79.

Finally, VA has made updates to Appendices A, B, and C of part 4 to reflect the above-noted changes.

Effective Date of Final Rule

Veterans Benefits Administration (VBA) personnel utilize the Veterans Benefit Management System for Rating (VBMS–R) to process disability compensation claims that involve disability evaluations made under the VASRD. In order to ensure that there is no delay in processing veterans' claims, VA must coordinate the effective date of this final rule with corresponding VBMS–R system updates. As such, this final rule will apply effective May 13, 2018, the date VBMS–R system updates related to this final rule will be complete.

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of this rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.'' This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will not affect any small entities. Only certain VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the final regulatory flexibility analysis requirements of section 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.009, Veterans Medical Care Benefits; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on December 1, 2017, for publication.

Dated: March 27, 2018.

Jeffrey M. Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR part 4 as follows:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

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

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 2. Amend § 4.77 by revising paragraph (a) to read as follows:

§ 4.77 Visual fields.

(a) *Examination of visual fields.* Examiners must use either Goldmann kinetic perimetry or automated perimetry using Humphrey Model 750, Octopus Model 101, or later versions of these perimetric devices with simulated kinetic Goldmann testing capability. For

phakic (normal) individuals, as well as for pseudophakic or aphakic individuals who are well adapted to intraocular lens implant or contact lens correction, visual field examinations must be conducted using a standard target size and luminance, which is Goldmann's equivalent III/4e. For aphakic individuals not well adapted to contact lens correction or pseudophakic individuals not well adapted to intraocular lens implant, visual field examinations must be conducted using Goldmann's equivalent IV/4e. The examiner must document the results for at least 16 meridians 22½ degrees apart for each eye and indicate the Goldmann equivalent used. See Table III for the normal extent (in degrees) of the visual fields at the 8 principal meridians (45 degrees apart). When the examiner indicates that additional testing is necessary to evaluate visual fields, the additional testing must be conducted using either a tangent screen or a 30-degree threshold visual field with the Goldmann III stimulus size. The examination report must document the results of either the tangent screen or of the 30-degree threshold visual field with the Goldmann III stimulus size.

* * * * *

■ 3. Amend § 4.78 by revising paragraph (a) to read as follows:

§ 4.78 Muscle function.

(a) *Examination of muscle function.* The examiner must use a Goldmann perimeter chart or the Tangent Screen method that identifies the four major quadrants (upward, downward, left, and right lateral) and the central field (20 degrees or less) (see Figure 2). The examiner must document the results of muscle function testing by identifying the quadrant(s) and range(s) of degrees in which diplopia exists.

* * * * *

■ 4. Amend § 4.79 in the table entitled ''Diseases of the Eye'' by:

■ a. Relocating diagnostic codes 6000, 6001, 6002, 6006, 6007, 6008, and 6009, after the first table ''Note'' and before diagnostic code 6010;

■ b. Revising the section entitled ''General Rating Formula'';

■ c. Revising diagnostic codes 6000, 6006, 6009–6015, 6017–6018, 6026–6027, and 6034–6036,;

■ d. Adding diagnostic codes 6040, 6042, and 6046 in numerical order; and

■ e. Revising diagnostic code 6091.

The revisions and additions read as follows:

§ 4.79 Schedule of ratings—eye.

Unless otherwise directed, evaluate diseases of the eye under the General Rating Formula for Diseases of the Eye.

DISEASES OF THE EYE

	Rating
General Rating Formula for Diseases of the Eye:	
Evaluate on the basis of either visual impairment due to the particular condition or on incapacitating episodes, whichever results in a higher evaluation	
With documented incapacitating episodes requiring 7 or more treatment visits for an eye condition during the past 12 months	60
With documented incapacitating episodes requiring at least 5 but less than 7 treatment visits for an eye condition during the past 12 months	40
With documented incapacitating episodes requiring at least 3 but less than 5 treatment visits for an eye condition during the past 12 months	20
With documented incapacitating episodes requiring at least 1 but less than 3 treatment visits for an eye condition during the past 12 months	10
Note (1): For the purposes of evaluation under 38 CFR 4.79, an incapacitating episode is an eye condition severe enough to require a clinic visit to a provider specifically for treatment purposes.	
Note (2): Examples of treatment may include but are not limited to: Systemic immunosuppressants or biologic agents; intravitreal or periocular injections; laser treatments; or other surgical interventions.	
Note (3): For the purposes of evaluating visual impairment due to the particular condition, refer to 38 CFR 4.75–4.78 and to § 4.79, diagnostic codes 6061–6091.	
6000 Choroidopathy, including uveitis, iritis, cyclitis, or choroiditis	
* * * * * * *	
6006 Retinopathy or maculopathy not otherwise specified	
* * * * * * *	
6009 Unhealed eye injury.	
Note: This code includes orbital trauma, as well as penetrating or non-penetrating eye injury	
6010 Tuberculosis of eye:	
Active	100
Inactive: Evaluate under § 4.88c or § 4.89 of this part, whichever is appropriate.	
6011 Retinal scars, atrophy, or irregularities:	
Localized scars, atrophy, or irregularities of the retina, unilateral or bilateral, that are centrally located and that result in an irregular, duplicated, enlarged, or diminished image	10
Alternatively, evaluate based on the General Rating Formula for Diseases of the Eye, if this would result in a higher evaluation	
6012 Angle-closure glaucoma	
Evaluate under the General Rating Formula for Diseases of the Eye. Minimum evaluation if continuous medication is required	10
6013 Open-angle glaucoma	
Evaluate under the General Rating Formula for Diseases of the Eye. Minimum evaluation if continuous medication is required	10
6014 Malignant neoplasms of the eye, orbit, and adnexa (excluding skin):	
Malignant neoplasms of the eye, orbit, and adnexa (excluding skin) that require therapy that is comparable to those used for systemic malignancies, i.e., systemic chemotherapy, X-ray therapy more extensive than to the area of the eye, or surgery more extensive than enucleation	100

DISEASES OF THE EYE—Continued

	Rating
Note: Continue the 100 percent rating beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy, or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating will be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination will be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, evaluate based on residuals	
Malignant neoplasms of the eye, orbit, and adnexa (excluding skin) that do not require therapy comparable to that for systemic malignancies:	
Separately evaluate visual and nonvisual impairment, e.g., disfigurement (diagnostic code 7800), and combine the evaluations.	
6015 Benign neoplasms of the eye, orbit, and adnexa (excluding skin):	
Separately evaluate visual and nonvisual impairment, e.g., disfigurement (diagnostic code 7800), and combine the evaluations	
* * * * * * *	
6017 Trachomatous conjunctivitis:	
Active: Evaluate under the General Rating Formula for Diseases of the Eye, minimum rating	30
Inactive: Evaluate based on residuals, such as visual impairment and disfigurement (diagnostic code 7800)	
6018 Chronic conjunctivitis (nontrachomatous):	
Active: Evaluate under the General Rating Formula for Diseases of the Eye, minimum rating	10
Inactive: Evaluate based on residuals, such as visual impairment and disfigurement (diagnostic code 7800)	
* * * * * * *	
6026 Optic neuropathy	
6027 Cataract:	
Preoperative: Evaluate under the General Rating Formula for Diseases of the Eye	
Postoperative: If a replacement lens is present (pseudophakia), evaluate under the General Rating Formula for Diseases of the Eye. If there is no replacement lens, evaluate based on aphakia (diagnostic code 6029)	
* * * * * * *	
6034 Pterygium:	
Evaluate under the General Rating Formula for Diseases of the Eye, disfigurement (diagnostic code 7800), conjunctivitis (diagnostic code 6018), etc., depending on the particular findings, and combine in accordance with § 4.25	
6035 Keratoconus	
6036 Status post corneal transplant:	
Evaluate under the General Rating Formula for Diseases of the Eye. Minimum, if there is pain, photophobia, and glare sensitivity	10
* * * * * * *	
6040 Diabetic retinopathy	
6042 Retinal dystrophy (including retinitis pigmentosa, wet or dry macular degeneration, early-onset macular degeneration, rod and/or cone dystrophy)	
6046 Post-chiasmal disorders	
Impairment of Central Visual Acuity	
* * * * * * *	
6091 Symblepharon:	
Evaluate under the General Rating Formula for Diseases of the Eye, lagophthalmos (diagnostic code 6022), disfigurement (diagnostic code 7800), etc., depending on the particular findings, and combine in accordance with § 4.25	

■ 5. In appendix A to part 4, add entries for §§ 4.77, 4.78, and 4.79 in numerical order to read as follows:

APPENDIX A TO PART 4—TABLE OF AMENDMENTS AND EFFECTIVE DATES SINCE 1946

Sec.	Diagnostic code No.	
*	*	* * * * *
4.77		Revised May 13, 2018.
4.78		Revised May 13, 2018.
4.79		Introduction criterion May 13, 2018; Revised General Rating Formula for Diseases of the Eye NOTE revised May 13, 2018.
	6000	Criterion May 13, 2018.
	6001	Criterion May 13, 2018.
	6002	Criterion May 13, 2018.
	6006	Title May 13, 2018. Criterion May 13, 2018.

APPENDIX A TO PART 4—TABLE OF AMENDMENTS AND EFFECTIVE DATES SINCE 1946—Continued

Sec.	Diagnostic code No.	
	6007	Criterion May 13, 2018.
	6008	Criterion May 13, 2018.
	6009	Criterion May 13, 2018.
	6011	Evaluation May 13, 2018.
	6012	Evaluation May 13, 2018.
	6013	Evaluation May 13, 2018.
	6014	Title May 13, 2018.
	6015	Title May 13, 2018.
	6017	Evaluation May 13, 2018.
	6018	Evaluation May 13, 2018.
	6019	Evaluation.
	6026	Evaluation May 13, 2018.
	6027	Evaluation *May 13, 2018.*
	6034	Evaluation May 13, 2018.
	6035	Evaluation *May 13, 2018.*
	6036	Evaluation May 13, 2018.
	6040	Added May 13, 2018.
	6042	Added May 13, 2018.
	6046	Added May 13, 2018.
	6091	Evaluation May 13, 2018.

* * * * * * *

■ 6. In appendix B to part 4, revise diagnostic codes 6000–6001, 6006–6015, 6025–6027, 6034, and 6035, and add diagnostic codes 6036, 6040, 6042, and 6046 in numerical order to read as follows:

APPENDIX B TO PART 4—NUMERICAL INDEX OF DISABILITIES

Diagnostic code No.	
* * * * *	
THE EYE	
Diseases of the Eye	
6000	Choroidopathy, including uveitis, iritis, cyclitis, or choroiditis.
6001	Keratopathy.
* * * * *	
6006	Retinopathy or maculopathy not otherwise specified.
6007	Intraocular hemorrhage.
6008	Detachment of retina.
6009	Unhealed eye injury.
6010	Tuberculosis of eye.
6011	Retinal scars, atrophy, or irregularities.
6012	Angle-closure glaucoma.
6013	Open-angle glaucoma.
6014	Malignant neoplasms of the eye, orbit, and adnexa (excluding skin).
6015	Benign neoplasms of the eye, orbit, and adnexa (excluding skin).
* * * * *	
6025	Disorders of the lacrimal apparatus (epiphora, dacrocystitis, etc.).

APPENDIX B TO PART 4—NUMERICAL INDEX OF DISABILITIES—Continued

Diagnostic code No.	
6026	Optic neuropathy.
6027	Cataract.
* * * * *	
6034	Pterygium.
6035	Keratoconus.
6036	Status post corneal transplant.
* * * * *	
6040	Diabetic retinopathy.
6042	Retinal dystrophy (including retinitis pigmentosa, wet or dry macular degeneration, early-onset macular degeneration, rod and/or cone dystrophy).
6046	Post-chiasmal disorders.
* * * * *	

■ 7. In appendix C:

■ a. Under the entry for ''New growths'':

■ i. Under ''Benign'', remove the entry for ''Eyeball and adnexa'' and add in its place an entry for ''Eye, orbit, and adnexa'';

■ ii. Under ''Malignant'', remove the entry for ''Eyeball'' and add in its place an entry for ''Eye, orbit, and adnexa'';

■ b. Add in alphabetical order an entry for ''Post-chiasmal disorders'';

■ c. Add in alphabetical order entries for:

■ i. ''Retinal dystrophy (including retinitis pigmentosa, wet or dry macular degeneration, early-onset macular degeneration, rod and/or cone dystrophy)''; and

■ ii. ''Retinopathy, diabetic''.

■ d. Remove the entry for ''Retinitis''; and

■ e. Add in alphabetical order an entry for ''Retinopathy or maculopathy not otherwise specified''.

The additions and revisions read as follows:.

APPENDIX C TO PART 4—ALPHABETICAL INDEX OF DISABILITIES

	Diagnostic code No.
* * * * *	
New growths:	
Benign.	
* * * * *	
Eye, orbit, and adnexa	6015
* * * * *	
Eye, orbit, and adnexa	6014
* * * * *	
Post-chiasmal disorders	6046
* * * * *	
Retinal dystrophy (including retinitis pigmentosa, wet or dry macular degeneration, early-onset macular degeneration, rod and/or cone dystrophy)	6042
Retinopathy, diabetic	6040
Retinopathy or maculopathy not otherwise specified	6006
* * * * *	

[FR Doc. 2018–06928 Filed 4–9–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–XF853

Notification of Availability and Request for Public Comment on Analysis of a Final Rule To Prohibit the Use of Hired Masters for Sablefish Catcher Vessel Quota Shares Received by Transfer After February 12, 2010

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

ACTION: Notification of availability; request for public comment.

SUMMARY: NMFS prepared an analysis of a final rule (Analysis) to prohibit the use of hired masters for sablefish catcher vessel quota shares received by transfer after February 12, 2010, in response to a November 16, 2016, order from the United States District Court, Western District of Washington (*Fairweather Fish, Inc. et al.* vs. *Pritzker et al.*, Case No. 3:14–cv–05685–BHS). The Analysis describes the factors that NMFS considered in its determination that the final rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) National Standards, subject to further consideration after public comment. NMFS requests public comment on the Analysis for consideration in its final determination of the consistency of the final rule with the Magnuson-Stevens Act National Standards.

DATES: Submit comments on or before May 10, 2018.

ADDRESSES:

Availability of the Analysis

Internet: You may obtain a copy of the analysis at *http://www.regulations.gov* or from the NMFS Alaska Region website at *http://www.alaskafisheries/noaa.gov*.

Comment submission: You may submit comments on the analysis, identified by NOAA–NMFS–2017–0145, by any one 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-2017-0145,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802.

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. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address) confidential business information, or otherwise sensitive information voluntarily submitted by the commenter will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228.

SUPPLEMENTARY INFORMATION: The IFQ Program for the sablefish fishery is implemented by the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), and Federal regulations at 50 CFR part 679 under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The Council recommended and NMFS approved the GOA FMP in 1978 and the BSAI FMP in 1982. Regulations implementing the FMPs and general regulations governing the IFQ Program appear at 50 CFR part 679.

The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 300, subpart E, and 50 CFR part 679 under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). Fishing for Pacific halibut is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Halibut Act. Section 773(c) of the Halibut Act authorizes the Council to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. Such Council-recommended regulations may be implemented by NMFS only after approval by the Secretary of Commerce.

NMFS implemented the IFQ Program for the management of the fixed gear (hook-and-line and pot gear) sablefish and halibut fisheries off Alaska in 1995 (58 FR 59343; November 9, 1993). The Council and NMFS designed the IFQ Program to allocate harvest privileges among participants in the commercial sablefish and halibut fisheries to reduce fishing capacity that had led to an unsafe ''race for fish'' as vessels raced to harvest their annual catch limits as quickly as possible before the annual limit was reached. A central objective of the IFQ Program was to support the social and economic character of the fisheries and the coastal fishing communities where much of the fisheries activities are based.

Under the IFQ Program, access to the fixed gear sablefish and halibut fisheries is limited to those persons holding quota share. NMFS issued separate quota share for sablefish and halibut to qualified applicants based on their historical participation during a set of qualifying years in the sablefish and halibut fisheries. Quota share is an exclusive, revocable privilege that allows the holder to harvest a specific percentage of either the total allowable catch in the sablefish fishery or the annual commercial catch limit in the halibut fishery.

NMFS annually issues IFQ permits to each quota share holder based on their quota share holdings and the amount of sablefish and halibut available for harvest. An annual IFQ permit authorizes the permit holder to harvest a specified amount of the IFQ species in a regulatory area from a specific operation type and vessel category. IFQ is expressed in pounds and is based on the amount of quota share held in relation to the total quota share pool for each regulatory area with an assigned catch limit.

The Council intended for the IFQ catcher vessel fleet to be composed primarily of quota share holders that actively participate in the fisheries by being on the vessel used to fish their IFQ. To achieve this objective, NMFS implemented requirements that individual holders of catcher vessel quota share be on board the vessel during all IFQ fishing to ensure that quota share to remain largely in the hands of active fishermen. This owner-onboard requirement was intended to promote stewardship by providing active fishermen with a vested interest in the long-term productivity of the sablefish and halibut resources. The Council and NMFS also intended for the owner-onboard requirement to provide entry level opportunities for new fishermen as initial quota share recipients transferred their quota share to new entrants and left the fishery.

The Council intended for catcher vessel quota share to be held by owner-onboard operations. However, the Council and NMFS allowed initial quota share recipients to use a hired master—a person designated by the quota share holder to land their IFQ—in order to provide initial recipients of quota share with the flexibility to continue in the

business practices that they had had prior to the implementation of the IFQ Program and minimize disruption to existing business arrangements. Eligibility to use a hired master is tied to the quota share holder and not the quota share, so initial recipients could use a hired master on quota share that they acquired over time.

The Council and NMFS have amended the hired master use provision several times since implementation of the IFQ Program to further restrict the use of hired masters and ensure that quota share holders remain vested participants in the IFQ fisheries. The most recent amendment further restricted the use of hired masters by prohibiting initial quota share recipients from using a hired master to harvest IFQ derived from catcher vessel quota share received by transfer after February 12, 2010 (79 FR 43679; July 28, 2014). The final rule to implement this restriction is a limited amendment to the IFQ Program that specifies which quota share yields IFQ that can be fished by a hired master instead of the quota share holder.

The preamble to the final rule describes the need for further restrictions on the use of hired masters in the IFQ Program, and a brief summary is provided here. In February 2010, the Council received testimony that some quota share initial recipients were increasingly using hired masters rather than continuing to be personally on board their vessels when fishing with quota share. Increased use of hired masters was attributed to initial recipients purchasing increasing amounts of quota share, and the IFQ derived from that quota share was being fished by hired masters. The Council was concerned that initial recipients were consolidating quota share to be fished by hired masters and were reducing opportunities for new entrants to the fishery. The Council determined that the transition to a predominately owner-onboard fishery has been unreasonably delayed because the ability to hire a master applies to the quota share holder and not the quota share itself. This allowed initial recipients to hire masters to harvest IFQ derived not only from their initially issued quota share, but also IFQ derived from any quota share received by transfer after initial issuance. As a result, quota share had become consolidated among fewer initial recipients of quota share that use hired masters. Quota share are remaining in the hands of initial recipients who hire masters to fish the resulting IFQ instead of being transferred, which delays the progress toward the Program objective of an owner-onboard fishery and decreases opportunities for new entrants to the IFQ fishery.

To address this problem, the Council recommended and NMFS implemented the final rule to prohibit the use of a hired master to fish IFQ sablefish and halibut derived from catcher vessel quota share received by transfer after February 12, 2010, with some exceptions described in the final rule (79 FR 43679; July 28, 2014). The Analysis provides additional detail on the need for the final rule and the anticipated impacts of the final rule on affected fishery participants.

On November 16, 2016, the United States District Court, Western District of Washington found that NMFS did not properly assess the final rule in light of the National Standards in the Magnuson-Stevens Act. The United States District Court remanded the final rule to NMFS for further consideration of the National Standards in section 301(a) of the Magnuson-Stevens Act. NMFS completed this consideration after evaluating the information used to prepare the final rule, information presented to the United States District Court, and the best available information relevant to the impacts of the final rule. NMFS has determined that the final rule is consistent with the National Standards as required by the Magnuson-Stevens Act, subject to further consideration after public comment. The Analysis describes the factors NMFS considered in making this determination. NMFS requests public comment on the Analysis for consideration in its final determination of the consistency of the final rule with the Magnuson-Stevens Act National Standards.

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

Dated: April 4, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–07251 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779–8161–02]

RIN 0648–XG161

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of non-Community Development Quota (CDQ) sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2018 non-CDQ sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI will be reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 5, 2018, through 2400 hrs, A.l.t., December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2018 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 622 metric tons (mt) as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, NMFS is requiring that non-CDQ sablefish caught with vessels using trawl gear in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibited retention of non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as April 4, 2018.

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

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 5, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–07333 Filed 4–5–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 69
Tuesday, April 10, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 333, and 390

RIN 3064–AE23

Transferred OTS Regulations Regarding Fiduciary Powers of State Savings Associations and Consent Requirements for the Exercise of Trust Powers

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to rescind and remove from the Code of Federal Regulations the part entitled *Fiduciary Powers of State Savings Associations* and to amend current FDIC regulations regarding consent to exercise trust powers to reflect the applicability of these parts to both State savings associations and State nonmember banks.

DATES: Comments must be received on or before June 11, 2018.

ADDRESSES: You may submit comments, identified by RIN 3064–AE23, by any of the following methods:

- *Agency Website: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency website.
- *Email: Comments@fdic.gov.* Include the RIN 3064–AE23 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, Room F–1054, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Please Note: All comments received must include the agency name and RIN 3064–AE23 for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/,* including any personal information provided. Paper copies of public comments may be requested from the Public Information Center by telephone at 877–275–3342 or 703–562–2200.

FOR FURTHER INFORMATION CONTACT: Michael W. Orange, Trust Examination Specialist, Division of Risk Management and Supervision, ph. (678) 916–2289 or *morange@fdic.gov;* or Annmarie H. Boyd, Counsel, Legal Division, ph. (202) 898–3714 or *aboyd@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

The Dodd-Frank Act provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies.[1] Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act,[2] the powers, duties, and functions formerly performed by the Office of Thrift Supervision (OTS) were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (OCC), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (Federal Reserve Board), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act[3] provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act[4] further directed the FDIC and OCC to consult with one another and to publish a list of the continued OTS regulations that would be enforced by the FDIC and the OCC, respectively. On June 14, 2011, the FDIC's Board of Directors approved a ''List of OTS Regulations to be enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[5]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act[6] granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the FDI Act and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended the definition of ''appropriate Federal banking agency'' contained in section 3(q) of the FDI Act[7] to add State savings associations to the list of entities for which the FDIC is designated as the ''appropriate Federal banking agency.'' As a result, when the FDIC acts as the designated ''appropriate Federal banking agency'' (or under similar terminology) for State savings associations and State nonmember banks, as it does here, the FDIC is authorized to issue, modify, and rescind regulations involving such institutions, as well as insured branches of foreign banks.

As noted, on June 14, 2011, pursuant to this authority, the FDIC's Board of Directors reissued and redesignated certain transferring regulations of the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[8] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that it would evaluate the transferred OTS regulations and might later incorporate the transferred OTS regulations into other FDIC rules, amend them, or rescind them, as appropriate.

One of the regulations transferred to the FDIC governed the fiduciary powers (also known as trust powers) of State

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 12 U.S.C. 5301 *et seq.* (2010).

[2] 12 U.S.C. 5411.

[3] 12 U.S.C. 5414(b).

[4] 12 U.S.C. 5414(c).

[5] 76 FR 39247 (July 6, 2011).

[6] 12 U.S.C. 5412(b)(2)(B)(i)(II).

[7] 12 U.S.C. 1813(q).

[8] 76 FR 47652 (August 5, 2011).

savings associations. The OTS regulation, formerly found at 12 CFR 550.10(b)(1), was transferred to the FDIC with only nominal changes and is now found in the FDIC's rules at 12 CFR part 390 subpart J.

II. Part 390 Subpart J: Fiduciary Powers of State Savings Associations

12 CFR part 390 subpart J provides that a State savings association must conduct its fiduciary (trust) operations in accordance with applicable State law and must exercise its fiduciary powers in a safe and sound manner. Subpart J was derived from former OTS rule 12 CFR 550.10(b)(1) regarding fiduciary operations of Federal savings associations,[9] which was added originally in order to recognize the OTS's interest in ensuring that State savings associations conduct their trust operations in a safe and sound manner and in accordance with State law.[10]

III. State Nonmember Banks and Trust Powers

Unlike the explicit requirement applicable to State savings associations in subpart J, there is no express rule that requires State nonmember banks to conduct fiduciary operations in accordance with applicable State law and to exercise their fiduciary powers in a safe and sound manner. However, the FDIC has long recognized that State nonmember banks, like State savings associations, must comply with State law when exercising trust or fiduciary powers.[11] This reflects a widely understood industry principle that the trust powers of State chartered institutions are granted under State law and are primarily administered by the State chartering authority.[12]

State nonmember banks approved for Federal deposit insurance after December 1, 1950, are generally required to file an application for consent to exercise trust powers.[13] Therefore, if a State nonmember bank seeks to change the nature of its current business to include trust activities, section 333.2 requires the bank to obtain the FDIC's prior written consent.[14] Under section 333.101(b), however, prior written consent is not required when a State nonmember bank seeks to act as trustee or custodian of certain qualified retirement, education, and health savings accounts, or other similar accounts in which the bank's duties are essentially custodial or ministerial in nature and the acceptance of such accounts without trust powers is not contrary to applicable State law.[15]

Section 303.242 of the FDIC rules contains application procedures that a State nonmember bank must follow to obtain the FDIC's prior written consent before engaging in trust activities. Prior to granting such consent, the FDIC considers whether the bank will conduct trust operations in a safe and sound manner, consistent with State law.

IV. The Proposal

After careful review, the FDIC has concluded that the retention of part 390 subpart J is unnecessary and that rescission of subpart J in its entirety would streamline the FDIC rules and regulations.

Consistent with its legal authority to issue and modify regulations as the appropriate Federal banking agency under section 3(q) of the Federal Deposit Insurance Act, the FDIC also proposes to amend and revise certain provisions of parts 333 and 303 to clarify and state explicitly that both State savings associations and State nonmember banks are required to obtain the FDIC's prior written consent to exercise trust powers. The FDIC, as the appropriate Federal banking agency for State savings associations and State nonmember banks, is responsible for ensuring that they engage in the safe and sound exercise of their trust powers and in accordance with applicable state law.[16] State nonmember banks and State savings associations are required to comply with State laws governing the administration of trusts, such as State law implementation of the Uniform Trust Code, Uniform Prudent Investor Act, and Uniform Probate Code, as well as applicable Federal laws, such as the Employee Retirement Income Security Act of 1974. Moreover, State savings associations and State nonmember banks are subject to potential liability for breaches of fiduciary duty as provided for under State law. Accordingly, the proposed rule will further ensure the consistent exercise of the FDIC's supervisory authority with regard to trust activities of both State savings associations and State nonmember banks and provide for the safe and sound exercise of trust powers in accordance with the applicable law.[17]

The proposed revisions would add a new section 333.3 to clarify that State savings associations and State nonmember banks must seek prior written consent from the FDIC to exercise trust powers. For State nonmember banks, § 333.3 would make explicit the FDIC's existing requirement that State nonmember banks must receive FDIC's consent before exercising trust powers as a change in the general character of business under 12 CFR 333.2. However, § 333.3 would represent a change for State savings associations, which are not currently required to receive FDIC's consent before exercising trust powers granted by their chartering authorities. Section 333.3 would explicitly state that both State nonmember banks and State savings associations would be required to follow the application procedures set forth in section 303.242. Section 333.101(b) also would be revised to permit State savings associations to act as custodians of certain qualifying accounts without obtaining prior written consent from the FDIC, in the same manner as is permitted for State nonmember banks.

As noted above, the proposed rule would make section 303.242 applicable to State savings associations in addition to State nonmember banks. Similar to State nonmember banks, under the proposed rule, State savings associations would not be required to receive the FDIC's prior written consent to exercise trust powers in the following circumstances:

(1) Where the institution received authority to exercise trust powers from its chartering authority prior to December 1, 1950; or

(2) Where the institution continues to conduct trust activities pursuant to

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[9] Generally, section 5(n) of HOLA authorizes the OCC (previously, the OTS) to grant special permits to Federal savings associations for the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. 12 U.S.C. 1464(n).

[10] Office of Thrift Supervision, Final Rule, 62 FR 67696–01 (Dec. 30, 1997).

[11] FDIC Trust Examination Manual, available at: *http://www.fdic.gov/regulations/examinations/trustmanual/section_10/section_x.html#B1* (The trust powers of State nonmember banks are granted under State law and that the administration of trust powers primarily goes to the State as the State nonmember bank's chartering authority.)

[12] *Id.*

[13] Banks granted trust powers by statute or charter prior to December 1, 1950, are considered grandfathered from the requirement to obtain consent to exercise trust powers.

[14] 12 CFR 333.2 requires the FDIC's prior written consent for a change in the general character or type of business exercised by a state nonmember bank.

[15] These accounts include Individual Retirement Accounts (IRAs), Self-Employed Retirement Plans, Roth IRAs, Coverdell Education Savings Accounts, Health Savings Accounts, and other accounts in which: (1) The bank's duties are essentially custodial or ministerial in nature; (2) the bank is required to invest the funds from such plans only in its own time or savings deposits or in any other assets at the direction of the customer; and (3) the bank's acceptance of such accounts without trust powers is not contrary to applicable State law.

[16] 12 U.S.C. 1813(q).

[17] 12 U.S.C. 1819(a) (Tenth); 12 U.S.C. 1818; 12 U.S.C. 1831p–1.

authority granted by its chartering authority subsequent to a charter conversion or withdrawal from membership in the Federal Reserve System.

In order to provide more information to State nonmember banks and State savings associations, section 303.242 would also be amended to provide a more complete description of the application's required documentation.

V. Alternatives

The FDIC considered alternatives to the proposed rule but believes that the proposed amendments represent the most appropriate option. As discussed previously, the Dodd-Frank Act transferred certain powers, duties, and functions formerly performed by the OTS to the FDIC. The FDIC's Board of Directors reissued and redesignated certain transferred regulations from the OTS, but noted that it would evaluate them and might later incorporate them into other FDIC rules, amend them, or rescind them, as appropriate. The FDIC has evaluated the existing regulations regarding fiduciary trust operations of covered entities, including sections 303, 333, and 390, subpart J. The FDIC considered the status quo alternative of retaining the current, bifurcated regulations but determined that it would be unnecessarily complex and potentially confusing to maintain substantively similar regulations regarding fiduciary trust powers of State non-member banks and State savings associations in different locations within the Code of Federal Regulations. Therefore, the FDIC proposes to amend the regulations and make them consistent for both State savings associations and State nonmember banks.

VI. Request for Comments

The FDIC invites comments on all aspects of this proposed rulemaking. In particular, the FDIC requests comments on the following questions:

1. Should part 390 subpart J pertaining to the fiduciary powers of State savings associations be retained in whole or in part? Please substantiate your response.

2. What positive or negative impacts, if any, can you foresee in the FDIC's proposal to revise parts 333 and 303 of the Code of Federal Regulations, including the impact on State savings associations not currently exercising trust powers, who would need to obtain FDIC consent if they choose to do so in the future?

VII. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), the FDIC 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.

This rule proposes to amend part 333 and 303 to clarify the existing consent and application requirements for State nonmember banks and to incorporate references to State savings associations into those parts. The revision of parts 333 and 303 to include State savings associations would add additional burden to the FDIC's current information collection under OMB control number 3064–0025,[18] Application for Consent to Exercise Trust Powers, as State savings associations would be required to complete the designated application and submit required documentation to comply with parts 333 and 303. Currently, there are a total of 47 State savings associations. There is only one State savings association currently exercising trust powers, and there are 46 additional State savings associations that would potentially need to seek the FDIC's consent pursuant to the proposed revision to parts 333 and 303 if they choose to exercise trust powers.[19] The FDIC proposes to revise this information collection as follows:

Title: Application for Consent to Exercise Trust Powers.

OMB Number: 3064–0025.

Form Number: FDIC 6200/09.

Affected Public: Insured State nonmember banks and insured State savings associations wishing to exercise trust powers.

	Type of burden	Estimated number of respondents	Estimated hours per response	Frequency of response	Total annual estimated burden (hours)
Eligible depository institutions	Reporting	9	8	On Occasion	72
Not-eligible depository institutions.	Reporting	4	24	On Occasion	96
Totals		13			168

In the chart above, eligible depository institutions are those that satisfy the criteria for expedited processing in 12 CFR 303.2(r) and not-eligible depository institutions are those that do not meet the expedited processing criteria. The numbers of respondents are estimated based on the number of filers annually, and the numbers of hours per response are estimated based on the supporting information typically requested of filers (which may include additional supporting financial projections for applicants ineligible for expedited processing). Because the proposed rule will affect State savings associations as described above, and most filers are eligible for expedited processing, the FDIC is proposing to increase the estimated number of respondents in the eligible category from eight to nine.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the brden of the information collection, including the validity of the methodology and assumptions used and the proposed change to require state savings associations to obtain consent before exercising trust powers granted by their state chartering authorities; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services

[18] The information collection for Application for Consent to Exercise Trust Powers, OMB No. 3064–0025, was renewed by OMB on August 30, 2017 and now expires on August 31, 2020.

[19] CALL Report Data, September 2017.

to provide information. All comments will become a matter of public record.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [20] requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $550 million). However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. As discussed in Section I. of this proposal, the FDIC has authority to issue, modify and rescind regulations as the appropriate Federal banking agency for State savings associations and State nonmember banks. The FDIC also considered alternatives as outlined in Section V of this proposal, including maintaining the status quo or amending the regulations to be consistent for both State savings associations and State non-member banks.

The FDIC supervises 3,674 institutions, of which 2,950 are ''small entities'' according to the terms of RFA. There are 2,907 small state non-member banks and 44 small state savings associations.[21]

The proposed rule amends section 333 to state that both State savings associations and State nonmember banks that seek to exercise trust powers need to obtain FDIC consent. The proposed rule is not expected to have any effect on State nonmember banks. With respect to State nonmember banks, the proposed rule includes no substantive changes and only includes clarifying changes to explicitly state the longstanding requirement that State nonmember banks receive FDIC's consent before newly exercising trust powers granted by their chartering authorities as a change in the character of business under 12 CFR 333.2. As discussed above, the proposed amendments to section 333 would represent a new requirement for State savings associations to receive FDIC's consent before exercising trust powers granted by their chartering authorities. The application to seek consent to exercise trust powers would be a one-time process that is not anticipated to create a significant economic impact for State savings associations. The information requested in the application would require an applicant State savings association to identify the type of trust power it wishes to exercise and to provide documentation that includes proof of the adoption of the FDIC's Statement of Principles of Trust Department Management, identification of the applicable trust officer, trust committee, and trust counsel, servicing arrangements, proof of the requisite approvals by the appropriate State authority, a projection of the proposed trust activity's three-year performance, and a statement of its impact on the applicant.[22] Based on the FDIC's supervisory experience, most of the documentation required, such as requisite State approval, servicing arrangements, and designation of personnel to serve as appropriate trust counsel, trust officer, and trust committee directors, is based on information and resources that an applicant State savings association would already possess or have to establish in order to exercise trust powers, regardless of whether it seeks the FDIC's prior written consent. Submitting already existing information is not expected to create significant, additional expenses for a State savings association seeking the FDIC's prior written consent to exercise trust powers. The FDIC also estimates that it will receive relatively few applications, given the small overall number of State savings associations (47), which would be affected only if they propose to exercise trust powers.

For these reasons, the FDIC certifies that the Proposed Rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities, within the meaning of those terms as used in the RFA. Accordingly, a regulatory flexibility analysis is not required.

The FDIC invites any comments that will further inform the FDIC's consideration of RFA.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [23] requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. As a Federal banking agency subject to the provisions of this section, the FDIC has sought to present the proposed rule to rescind part 390 subpart J and revise parts 333 and 303 of the FDIC rules in a simple and straightforward manner. The FDIC invites comments on whether the proposal is clearly stated and effectively organized, and how the FDIC might make the proposal easier to understand.

- Has the FDIC organized the material to inform your needs? If not, how could the FDIC present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the FDIC incorporate to make the regulation easier to understand?

D. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations and amendments to regulations that impose additional reporting, disclosure, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[24]

The FDIC notes that comment on these matters have been solicited in other sections of this Supplementary Information section, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the FDIC also invites any other comments

[20] 5 U.S.C. 601 *et seq.*

[21] CALL Report Data, September 2017.

[22] FDIC 6200/09 (10–05).

[23] 12 U.S.C. 4809.

[24] 12 U.S.C. 4802.

that further will inform its consideration of RCDRIA.

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (''EGRPRA''), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured institutions.[25] The FDIC, along with the other federal banking agencies, submitted a Joint Report to Congress on March 21, 2017 (''EGRPRA Report'') discussing how the review was conducted, what has been done to date to address regulatory burden, and further measures we will take to address issues that were identified. As noted in the EGRPRA Report, the FDIC is continuing to streamline and clarify its regulations through the OTS rule integration process. By removing outdated or unnecessary regulations, such as subpart J, and amending parts 333 and 303, this rule complements other actions the FDIC has taken, separately and with the other federal banking agencies, to further the EGRPRA mandate.

List of Subjects

12 CFR Part 303

Administrative practice and procedure; Bank deposit insurance; Banks, banking; Reporting and recordkeeping requirements; Savings associations.

12 CFR Part 333

Banks, banking.

12 CFR Part 390

Administrative practice and procedure; Advertising; Aged; Civil rights; Conflict of interests; Credit; Crime; Equal employment opportunity; Fair housing; Government employees; Individuals with disabilities; Reporting and recordkeeping requirements; Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend 12 CFR parts 308, 333, and 390 as follows:

PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 is revised to read as follows:

Authority: 12 U.S.C. 378, 1464, 1601–1607, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601–1607.

Subpart M—Other Filings

■ 2. Revise § 303.242 to read as follows:

§ 303.242 Exercise of trust powers.

(a) *Scope.* This section contains the procedures to be followed by a state nonmember bank or state savings association that seeks to obtain the FDIC's prior written consent to exercise trust powers. The FDIC's prior written consent to exercise trust powers is not required in the following circumstances:

(1) Where a state nonmember bank or state savings association received authority to exercise trust powers from its chartering authority prior to December 1, 1950; or

(2) Where the institution continues to conduct trust activities pursuant to authority granted by its chartering authority subsequent to a charter conversion or withdrawal from membership in the Federal Reserve System.

(b) *Where to file.* Applicants shall submit to the appropriate FDIC office a completed form, ''Application for Consent to Exercise Trust Powers.'' This form may be obtained from any FDIC regional director.

(c) *Content of filing.* The filing shall consist of the completed trust application form indicating whether the respective state nonmember bank or state savings association will exercise full or limited trust powers and all required documentation as provided in the application instructions, including:

(1) A certified copy of the resolution of the applicant's board of directors certifying the extent of the institution's compliance with applicable FDIC guidance;

(2) Information regarding the trust powers granted by the state authority;

(3) Information on the individual designated as the primary Trust Officer;

(4) Servicing arrangements, if any;

(5) A list of proposed members of the Trust Committee;

(6) Information on the individual or law firm designated to serve as trust counsel;

(7) Projection of trust accounts, assets, and profitability for the first three calendar years after the trust department begins operations and analysis of any adverse impact of potential net operating losses of the applicant institution arising from the offering of trust services.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in § 303.2(r) will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2). Absent such removal, an application processed under expedited procedures will be deemed approved 30 days after the FDIC's receipt of a substantially complete application.

(f) *Standard processing.* For those applications that are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action when the decision is rendered.

PART 333—EXTENSION OF CORPORATE POWERS

■ 3. The authority citation for part 333 is revised to read as follows:

Authority: 12 U.S.C. 1816, 1817(i), 1818, 1819(a) (Seventh, Eighth, and Tenth), 1828, 1828(m), 1831p–1(c), 5414, and 5415.

■ 4. Add § 333.3 to read as follows:

§ 333.3 Consent Required for Exercise of Trust Powers.

Except as provided in § 303.242(a), a State nonmember bank or State savings association seeking to exercise trust powers must obtain prior written consent from the FDIC. Procedures for obtaining the FDIC's prior written consent are set forth in § 303.242 of this part.

■ 5. Revise § 333.101 paragraph (b) to read as follows:

§ 333.101 Prior consent not required.

* * * * *

(b) An insured State nonmember bank or State savings association, not exercising trust powers, may act as trustee or custodian of Individual Retirement Accounts established pursuant to the Employee Retirement Income Security Act of 1974 (26 U.S.C. 408), Self-Employed Retirement Plans established pursuant to the Self-Employed Individuals Retirement Act of 1962 (26 U.S.C. 401), Roth Individual Retirement Accounts and Coverdell Education Savings Accounts established pursuant to the Taxpayer Relief Act of 1997 (26 U.S.C. 408A and 530 respectively), Health Savings Accounts established pursuant to the Medicare

[25] Public Law 104–208, 110 Stat. 3009 (1996).

Prescription Drug Improvement and Modernization Act of 2003 (26 U.S.C. 223), and other similar accounts without the prior written consent of the Corporation provided:

(1) The bank's or savings association's duties as trustee or custodian are essentially custodial or ministerial in nature,

(2) The bank or savings association is required to invest the funds from such plans only

(i) In its own time or savings deposits, or

(ii) In any other assets at the direction of the customer, provided the bank or savings association does not exercise any investment discretion or provide any investment advice with respect to such account assets, and

(3) The bank's or savings association's acceptance of such accounts without trust powers is not contrary to applicable State law.

PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

■ 6. The authority citation for part 390 is revised to read as follows:

Authority: 12 U.S.C. 1819.

Subpart J—[Removed and Reserved]

■ 7. Remove and reserve subpart J.

Dated at Washington, DC, on March 20, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2018–07227 Filed 4–9–18; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No.: FAA–2018–0279; Notice No. 18–01]

RIN 2120–AK94

IFR Operations at Locations Without Weather Reporting

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The proposed rule would allow helicopter air ambulance (HAA) operators to conduct instrument flight rules (IFR) departure and approach procedures at airports and heliports that do not have an approved weather reporting source in HAA aircraft without functioning severe weather detection equipment (airborne radar or lightning strike detection equipment), when there is no reasonable expectation of severe weather at the destination, the alternate, or along the route of flight. This rule would also update requirements to address the discontinuance of area forecasts, currently used as flight planning and pilot weather briefing aids. Additionally, this rulemaking proposes to update requirements regarding HAA departure procedures to include additional types of departure procedures that are currently acceptable for use.

DATES: Send comments on or before May 10, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0279 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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *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: Tom Luipersbeck, Air Transportation Division, 135 Air Carrier Operations Branch, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email: *Thomas.A.Luipersbeck@faa.gov*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This rulemaking would amend 14 CFR 135.611(b) to allow helicopter air ambulance (HAA) operators using aircraft without functioning severe weather detection equipment (airborne radar or lightning strike detection equipment), to conduct IFR departure and approach procedures at airports and heliports that do not have an approved weather reporting source. In conducting these operations, the pilot in command must not reasonably expect to encounter severe weather at the destination, the alternate, or along the route of flight. This action would encourage utilization of the IFR infrastructure to the fullest extent possible, thus increasing the overall safety of HAA Operations.

This rulemaking also proposes to update certain provisions in § 135.611(a)(1) to address the discontinuance of area forecasts, currently used as flight planning and pilot weather briefing aids, and the transition to digital and graphical alternatives already being produced by the U.S. National Weather Service (NWS). Additionally, this rulemaking proposes to update requirements in § 135.611(a)(3) regarding HAA departure procedures to include additional types of departure procedures that are currently acceptable for use.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the general authority described in 49 U.S.C. 106(f), 44701(a), and 44730.

III. Background

Section 135.611 contains provisions to allow certificate holders to conduct HAA IFR operations at airports with an instrument approach procedure and at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the FAA. Each aircraft operated under § 135.611 must be equipped with functioning equipment to detect severe weather, even when weather reports and forecasts indicate no foreseeable severe weather conditions will exist along the route to be flown.

A. Statement of the Problem

Section 135.611(b) unnecessarily limits the ability of certain HAA operators to conduct IFR departure and

approach procedures at airports and heliports that do not have an approved weather reporting source. The current limitations inadvertently restrict HAA operations conducted when no severe weather is present at the airport or along the route, by requiring *all* HAA operated under § 135.611 be equipped with functioning severe weather detection equipment. The FAA has determined this requirement is too broad, because a pilot in command can discern whether severe weather at the destination, the alternate airport, or along the route, will exist. The proposed amendment will allow pilots to conduct operations if current weather reports indicate thunderstorms or other hazardous weather is not expected during the flight.

The FAA intends for the proposed amendment to § 135.611 to encourage IFR operations and result in more aircraft operating in positively controlled environments, thereby increasing the safety of HAA operations. Altering the requirements of § 135.611(b) will increase the frequency of IFR operations, thereby minimizing pilots' operations under visual flight rules (VFR) in marginal visual meteorological conditions. The proposed amendment would provide greater opportunity for HAA operations to enter the National Airspace System (NAS) under IFR than previously permitted.

B. Exemption History

Since the requirement in § 135.611(b) was established (79 FR 43622, July 28, 2014), nine HAA certificate holders have petitioned for exemptions to § 135.611(b) to allow them to operate without functioning severe weather detection equipment when severe weather conditions are not reasonably expected along the route to be flown.[1] In such circumstances, the FAA has issued exemptions to HAA operators that have allowed the safe conduct of IFR departure and approach procedures at airports and heliports that do not have an approved weather reporting source in HAA aircraft without functioning severe weather detection equipment (airborne radar or lightning strike detection equipment).

The FAA found that the first petition, which granted the same relief as that provided in this proposed rulemaking, would set a precedent. Therefore, to allow for the public to comment on the petition, a summary of the petition was published in the **Federal Register** on June 15, 2015 (80 FR 34195). No comments were received.

IV. Discussion of the Proposal

A. Modification of Requirement for Severe Weather Detection Equipment

Existing § 135.611 permits HAA certificate holders to conduct helicopter IFR operations at airports with an instrument approach procedure and at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the FAA. Each HAA aircraft operated under existing § 135.611 must be equipped with functioning equipment to detect severe weather, even when weather reports and forecasts indicate no foreseeable severe weather conditions will exist along the route to be flown.

The FAA's initial intent of requiring severe weather detection equipment was to help the pilot ascertain the weather in the aircraft's vicinity (75 FR 62640, 62650 (October 12, 2010)) and thus mitigate the risk of inadvertently encountering instrument meteorological conditions (IMC). The agency has reconsidered this requirement and determined it is overly broad, because it applies even in circumstances in which the pilot does not reasonably expect to encounter severe weather along the route or at the destination airport. Further, existing training on meteorology to ensure a practical knowledge of weather phenomena, including the principles of frontal systems, icing, fog, thunderstorms, meteorology hazards applicable to the certificate holder's areas of operation, adverse weather avoidance practices, and weather planning are all currently part of required training program curriculum segments for HAA operations. This training, together with the pre-flight risk analysis required in § 135.617, provide the pilot in command with the tools by which to ascertain whether severe weather may reasonably exist along the route of a flight or at the destination airport. Pre-flight risk analysis and training designed specifically for HAA operations function to verify the pilot in command can adequately analyze departure, en route, destination and forecasted weather. The continued existence of these requirements verifies a pilot in command does not need severe weather detection equipment when he or she does not reasonably expect to encounter severe weather.

Pilots' determinations concerning the potential for encountering severe weather conditions will result from the routine flight planning they complete prior to operating any aircraft.[2] Prior to the first leg of each HAA operation, the pilot in command must conduct a preflight risk analysis pursuant to § 135.617 to ensure awareness of departure, en route, destination, and forecasted weather. The risk analysis also includes determining whether another HAA operator has rejected a flight request based on the presence of any severe weather or dangerous meteorological phenomena. Overall, the pilot in command will use the knowledge and skills he or she maintains pursuant to the provisions of part subpart L of part 135 in determining the likelihood of encountering severe weather.

By eliminating the § 135.611(b) requirement for each HAA aircraft to be equipped with severe weather detection equipment when there is no forecast of severe weather, the proposed amendment would allow more HAA operators to conduct IFR departure and approach procedures at airports and heliports that do not have an approved weather reporting source. This proposed amendment would encourage utilization of the IFR infrastructure to the fullest extent possible by allowing more operators to use the IFR infrastructure, thereby avoiding the potential for controlled flight into terrain accidents during flights conducted under marginal visual flight rules conditions. This action would also increase the opportunity for access to critical care patient flights when weather conditions are below those required for VFR operation, but do not involve the potential for severe weather.

The FAA emphasizes, however, that if a reasonable expectation of severe weather exists during the flight and in the vicinity of the planned route, the helicopter must be equipped with operable severe weather detection equipment or the flight must be declined or aborted.

B. Updated Requirements

As noted previously, this rulemaking also proposes to update certain other provisions of § 135.611, specifically § 135.611(a)(1) regarding area forecasts and § 135.611(a)(3) regarding departure procedures.

[1] See the following FAA grants of petitions for exemption: Docket Nos. FAA–2016–5575, FAA–2016–5028, FAA–2015–3934, FAA–2015–3854, FAA–2015–3740, FAA–2015–2696, FAA–2015–2694, FAA–2015–1868, and FAA–2015–1867.

[2] The FAA provides various resources to which pilots may refer in conducting risk analyses to prepare for flight. See, *e.g., Instrument Procedures Handbook,* FAA–H–8083–16B (Sept. 14, 2017); *Aviation* Weather, FAA Advisory Circular 00–6B (Aug. 23, 2016); *Pilot's Handbook of Aeronautical Knowledge,* FAA–H–8083–25B (2016); *Rotorcraft Flying Handbook,* FAA–H–8083–21 (2000).

Area Forecasts

The FAA, in coordination with the NWS, expects to discontinue Area Forecasts, currently used as flight planning and pilot weather briefing aids and transition to digital and graphical alternatives already being produced by NWS.[3] While the Area Forecast met aviation weather information needs for many years, today the NWS provides equivalent information through a number of better alternatives.[4] In order to address this future transition, this rulemaking proposes to update the wording of § 135.611(a)(1) from ''area forecast'' to ''weather reports, forecasts, or any combination of them.''

Departure Procedures

This rulemaking proposes to update requirements in § 135.611 regarding HAA departure procedures (DP) to include additional types of DP that are currently acceptable for use. A DP is required in order to depart an airport in weather conditions less than VFR. Several types of DPs, however, exist in addition to an obstacle departure procedure cited in the current regulation, such as a diverse departure or standard instrument departure. Based on an evaluation of these departure procedures, FAA has determined that any of these DPs may be appropriate and safe because of ensured obstacle clearance and flyability (when used appropriate to the location). In this rulemaking, the FAA proposes to update the wording in § 135.611(a)(3) from ''the published Obstacle Departure Procedure'' to ''a published Departure Procedure.''

V. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this Notice of Proposed Rulemaking. Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule.

The FAA determined that this action will likely result in regulatory cost savings. Without this rule there will remain in place unnecessary limits on certain helicopter air ambulance (HAA) operations. These limits effectively reduce the number of HAA operations without improving aviation safety. The FAA has been granting exemptions to HAA operators who asked for relief from these limitations and the FAA expects these requests to continue. This change will relieve HAA operators and the FAA of those procedural costs estimated to be $1,500/exemption. This rule would have eliminated the expense of nine petitions for exemption that the FAA granted.[5] The FAA has, therefore, determined that this rule has cost-savings, has minimal impact, is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. As this rule removes an unnecessary limitation on the operation of HAA without reducing aviation safety, it will relieve HAA operators of the costs associated with installing unnecessary equipment. Given the demographics on HAA operators, this rule will likely impact a substantial number of small entities. However, it will have a minimal economic impact. Therefore, the head of the agency certifies the rule is not expected to have a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United

[3] *Aviation Weather Product Change: Transition of Select Area Forecasts (FAs) to Digital and Graphical Alternatives*, 79 FR 35211 (June 19, 2014). In the Notice, the FAA recommended that NWS transition six FAs covering separate geographical areas of the contiguous United States and one area forecast covering Hawaii to digital and graphical alternatives already being produced by NWS. The seven area forecasts affected by this transition included FAUS41 (BOS), FAUS42 (MIA), FAUS43 (CHI), FAUS44 (DFW), FAUS45 (SLC), FAUS46 (SFO), and FAHW31 (Hawaii).

[4] See *id.*

[5] See the following FAA grants of petitions for exemption: Docket Nos. FAA–2016–5575, FAA–2016–5028, FAA–2015–3934, FAA–2015–3854, FAA–2015–3740, FAA–2015–2696, FAA–2015–2694, FAA–2015–1868, and FAA–2015–1867. The FAA subsequently granted six petitions to extend the effective dates of the exemptions.

States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that the rule will have the same impact on international and domestic flights and is a safety rule thus is consistent with the Trade Agreements Act.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 and involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, International Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the Regulatory Evaluation section, above.

VII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Publishing Office's web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 135

Air Transportation, Aircraft, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 1. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 2. Amend § 135.611 by revising paragraphs (a)(1), (a)(3) and (b) to read as follows:

§ 135.611 IFR operations at locations without weather reporting.

(a) * * *

(1) The certificate holder must obtain a weather report from a weather reporting facility operated by the NWS, a source approved by the NWS, or a source approved by the FAA, that is located within 15 nautical miles of the airport. If a weather report is not available, the certificate holder may obtain weather reports, forecasts, or any combination of them from the NWS, a source approved by the NWS, or a source approved by the FAA, for information regarding the weather observed in the vicinity of the airport;

* * * * *

(3) In Class G airspace, IFR departures with visual transitions are authorized only after the pilot in command determines that the weather conditions at the departure point are at or above takeoff minimums depicted in a published Departure Procedure or VFR minimum ceilings and visibilities in accordance with § 135.609.

* * * * *

(b) Each helicopter air ambulance operated under this section must be equipped with functioning severe weather detection equipment, unless the pilot in command reasonably determines severe weather will not be encountered at the destination, the alternate, or along the route of flight.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44730 in Washington, DC, on April 3, 2018.

John S. Duncan,

Executive Director, Flight Standards Service.

[FR Doc. 2018–07296 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0604; A–1–FRL–9976–36—Region 1]

Air Plan Approval; Vermont; Infrastructure Requirement for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the remaining portion of a November 2, 2015 State Implementation Plan (SIP) revision submitted by the State of Vermont. This revision addresses the interstate transport requirements of the Clean Air Act (CAA), referred to as the good neighbor provision, with respect to the primary 2010 sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). This action proposes to approve Vermont's demonstration that the State is meeting its obligations regarding the transport of SO_2 emissions into other states. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before May 10, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2014–0604 at *www.regulations.gov,* or via email to *dahl.donald@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed 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 *www.epa.gov/dockets/commenting-epa-dockets.* Publicly available docket materials are available at *www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912, tel. (617) 918–1657; or by email at *dahl.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

Table of Contents

I. Background

On June 22, 2010 (75 FR 35520), EPA promulgated a revised primary NAAQS for SO_2 at a level of 75 ppb, based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new

or revised NAAQS, or within such shorter period as EPA may prescribe.[1] These SIPs, which EPA has historically referred to as ''infrastructure SIPs,'' are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS, and the requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. A detailed history, interpretation, and rationale of these SIPs and their requirements can be found in, among other documents, EPA's May 13, 2014 proposed rule titled, ''Infrastructure SIP requirements for the 2008 Lead NAAQS,'' in the section ''What is the scope of this rulemaking?'' (*see* 79 FR 27241 at 27242–27245). As noted above, section 110(a) of the CAA imposes an obligation upon states to submit to EPA a SIP submission for a new or revised NAAQS. The content of individual state submissions may vary depending upon the facts and circumstances, and may also vary depending upon what provisions the state's approved SIP already contains.

On November 2, 2015, the Vermont Department of Environmental Conservation (VT DEC) submitted proposed revisions to its SIP, certifying that its SIP meets the requirements of section 110(a)(2) of the CAA with respect to the 2008 ozone, 2010 NO_2, and 2010 SO_2 primary NAAQS. On June 27, 2017 (82 FR 29005), EPA approved VT DEC's certification that its SIP was adequate to meet most of the program elements required by section 110(a)(2) of the CAA with respect to the 2008 ozone, 2010 NO_2, and 2010 SO_2 NAAQS. EPA conditionally approved the State's submission in relation to subsections (C), (D), and (J) of CAA section 110(a)(2) in relation to the prevention of significant deterioration permit program.

However, at that time, EPA did not take action on VT DEC's certification that its SIP met the requirements of section 110(a)(2)(D)(i)(I) for the 2010 primary SO_2 NAAQS. EPA is now proposing to approve VT DEC's November 2, 2015 certification that its SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I), for purposes of the 2010 SO_2 NAAQS.

II. State Submittal

Vermont presented several facts in its SIP submission on the effect of SO_2 emissions from sources within Vermont on downwind and neighboring states' SO_2 nonattainment areas and those states' ability to maintain the 2010 SO_2 NAAQS. The SIP submission notes statewide SO_2 emissions from point sources in 2011 were less than 500 tons total. Vermont also included two data points regarding ambient monitoring data in its November 2015 submittal. First, the design value from an instate monitor in Rutland for the period 2012–2014 was 13 ppb, which is only 17% of the 2010 SO_2 standard. Vermont also stated the most recent design value (2013) for the central New Hampshire nonattainment area was 23 ppb. Finally, Vermont states in its SIP submission that ''[n]o source or sources within Vermont have been identified as contributing significantly to nonattainment in any other state or are the subject of an active finding under section 126 of the CAA with respect to SO_2 or any other air pollutant.''

III. Summary of the Proposed Action

This proposed approval of Vermont's November 2, 2015 SIP submission addressing interstate transport of SO_2 is intended to show that the State is meeting its obligations regarding CAA section 110(a)(2)(D)(i)(I) relative to the primary 2010 SO_2 NAAQS.[2] Interstate transport requirements for all NAAQS pollutants prohibit any source, or other type of emissions activity, in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. As part of this analysis, and as explained in detail below, EPA has taken several approaches to addressing interstate transport in other actions based on the characteristics of the pollutant, the interstate problem presented by emissions of that pollutant, the sources that emit the pollutant, and the information available to assess transport of that pollutant.

Despite being emitted from a similar universe of point and nonpoint sources, interstate transport of SO_2 is unlike the transport of fine particulate matter ($PM_{2.5}$) or ozone that EPA has addressed in other actions, in that SO_2 is not a regional mixing pollutant that commonly contributes to widespread nonattainment of the SO_2 NAAQS over a large, multi-state area. While in certain respects transport of SO_2 is more analogous to the transport of lead (Pb) because SO_2's and Pb's physical properties result in localized impacts very near the emissions source, in another respect the physical properties and release height of SO_2 are such that impacts of SO_2 do not experience the same sharp decrease in ambient concentrations as rapidly and as nearby as they do for Pb. While emissions of SO_2 travel farther and have sufficiently wider-ranging impacts than emissions of Pb such that it is reasonable to require a different approach for assessing SO_2 transport than assessing Pb transport, the differences are not significant enough to treat SO_2 in a manner similar to the way in which EPA treats and analyzes regional transport pollutants such as ozone or $PM_{2.5}$.

Put simply, a different approach is needed for interstate transport of SO_2 than the approach used for the other pollutants identified above: The approaches EPA has adopted for Pb transport are too tightly circumscribed to the source, and the approaches for ozone or $PM_{2.5}$ transport are too regionally focused. SO_2 transport is therefore a unique case, and EPA's evaluation of whether Vermont has met is transport obligations in relation to SO_2 was accomplished in several discrete steps.

First, EPA evaluated the universe of sources in Vermont likely to be responsible for SO_2 emissions that could contribute to interstate transport. An assessment of the 2014 National Emissions Inventory (NEI) for Vermont made it clear that the vast majority of SO_2 emissions in Vermont are from fuel combustion at point and nonpoint sources,[3] and therefore it would be reasonable to evaluate the downwind impacts of emissions from these two fuel combustion source categories, combined, in order to help determine whether the State has met is transport obligations.

Second, EPA selected a spatial scale—essentially, the geographic area and distance around the point sources in which we could reasonably expect SO_2 impacts to occur—that would be

[1] This requirement applies to both primary and secondary NAAQS, but EPA's approval in this document applies only to the 2010 primary NAAQS for SO_2 because EPA did not establish in 2010 a new secondary NAAQS for SO_2.

[2] This proposed approval of Vermont's SIP submission under CAA section 110(a)(2)(D)(i)(I) is based on the information contained in the administrative record for this action, and does not prejudge any other future EPA action that may make other determinations regarding Vermont's air quality status. Any such future actions, such as area designations under any NAAQS, will be based on their own administrative records and EPA's analyses of information that becomes available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to EPA's Data Requirements Rule (80 FR 51052, August 21, 2015) and information submitted to EPA by states, air agencies, and third-party stakeholders such as citizen groups and industry representatives.

[3] *See* EPA's web page, *www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei,* for a description of what types of sources of air emissions are considered point and nonpoint sources.

appropriate for its analysis, ultimately settling on utilizing an ''urban scale'' with dimensions from 4 to 50 kilometers from point and nonpoint sources, given the usefulness of that range in assessing trends in both area-wide air quality and the effectiveness of large-scale pollution control strategies. As such, EPA utilized an assessment up to 50 kilometers from fuel-combustion sources in order to assess trends in area-wide air quality that might have an impact on the transport of SO_2 from Vermont to downwind states.

Third, EPA assessed all available data at the time of this rulemaking regarding SO_2 emissions in Vermont and their possible impacts in downwind states, including: (1) SO_2 ambient air quality; (2) SO_2 emissions and SO_2 emissions trends; (3) SIP-approved SO_2 regulations and permitting requirements; and (4) other SIP-approved or federally-promulgated regulations which may yield reductions of SO_2 at Vermont's fuel-combustion point and nonpoint sources.

Fourth, using the universe of information identified in steps 1–3 (*i.e.,* emissions sources, spatial scale and available data, and enforceable regulations), EPA then conducted an analysis under CAA section 110(a)(2)(D)(i)(I) to evaluate whether or not fuel-combustion sources in Vermont would significantly contribute to SO_2 nonattainment in other states, and then whether emissions from those sources would interfere with maintenance of the SO_2 NAAQS in other states.

Based on the analysis provided by the State in its November 2, 2015 SIP submission and EPA's assessment of the information discussed at length below, EPA proposes to find that sources or other emissions activity within Vermont will not contribute significantly to nonattainment, nor will they interfere with maintenance of the 2010 primary SO_2 NAAQS in any other state.

IV. Section 110(a)(2)(D)(i)(I)—Interstate Transport

A. General Requirements and Historical Approaches for Criteria Pollutants

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in another state. The two clauses of this section are referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance of the NAAQS).

EPA's most recent infrastructure SIP guidance, the September 13, 2013 ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' did not explicitly include criteria for how the Agency would evaluate infrastructure SIP submissions intended to address section 110(a)(2)(D)(i)(I).[4] With respect to certain pollutants, such as ozone and particulate matter, EPA has addressed interstate transport in eastern states in the context of regional rulemaking actions that quantify state emission reduction obligations.[5] In other actions, such as EPA action on western state SIPs addressing ozone and particulate matter, EPA has considered a variety of factors on a case-by-case basis to determine whether emissions from one state interfere with the attainment and maintenance of the NAAQS in another state. In such actions, EPA has considered available information such as current air quality, emissions data and trends, meteorology, and topography.[6]

For other pollutants such as Pb, EPA has suggested the applicable interstate transport requirements of section 110(a)(2)(D)(i)(I) can be met through a state's assessment as to whether or not emissions from Pb sources located in close proximity to its borders have emissions that impact a neighboring state such that they contribute significantly to nonattainment or interfere with maintenance in that state. For example, EPA noted in an October 14, 2011 memorandum titled, ''Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Pb NAAQS,'' [7] that the physical properties of Pb prevent its emissions from experiencing the same travel or formation phenomena as $PM_{2.5}$ or ozone, and there is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. Accordingly, while it may be possible for a source in a state to emit Pb in a location and in quantities that may contribute significantly to nonattainment in, or interfere with maintenance by, any other state, EPA anticipates that this would be a rare situation, *e.g.,* where large sources are in close proximity to state boundaries.[8] Our rationale and explanation for approving the applicable interstate transport requirements under section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS, consistent with EPA's interpretation of the October 14, 2011 guidance document, can be found in, among other instances, the proposed approval and a subsequent final approval of interstate transport SIPs submitted by Illinois, Michigan, Minnesota, and Wisconsin.[9]

B. Approach for Addressing the Interstate Transport Requirements of the 2010 Primary SO_2 NAAQS in Vermont

This document describes EPA's evaluation of Vermont's conclusion contained in the State's November 2, 2015 infrastructure SIP submission that the State satisfies the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS.[10]

As previously noted, section 110(a)(2)(D)(i)(I) requires an evaluation of any source or other type of emissions activity in one state and how emissions from these sources or activities may impact air quality in other states. As the analysis contained in Vermont's submittal demonstrates, a state's obligation to demonstrate that it is meeting section 110(a)(2)(D)(i)(I) cannot

[4] At the time the September 13, 2013 guidance was issued, EPA was litigating challenges raised with respect to its Cross State Air Pollution Rule (''CSAPR''), 76 FR 48208 (August 8, 2011), designed to address the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements with respect to the 1997 ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS. CSAPR was vacated and remanded by the D.C. Circuit in 2012 pursuant to *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7. EPA subsequently sought review of the D.C. Circuit's decision by the Supreme Court, which was granted in June 2013. As EPA was in the process of litigating the interpretation of section 110(a)(2)(D)(i)(I) at the time the infrastructure SIP guidance was issued, EPA did not issue guidance specific to that provision. The Supreme Court subsequently vacated the D.C. Circuit's decision and remanded the case to that court for further review. 134 S.Ct. 1584 (2014). On July 28, 2015, the D.C. Circuit issued a decision upholding CSAPR, but remanding certain elements for reconsideration. 795 F.3d 118.

[5] NO_X SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); CSAPR, 76 FR 48208 (August 8, 2011).

[6] *See, e.g.,* Approval and Promulgation of Implementation Plans; State of California; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference With Maintenance Requirements, Proposed Rule, 76 FR 146516, 14616–14626 (March 17, 2011); Final Rule, 76 FR 34872 (June 15, 2011); Approval and Promulgation of State Implementation Plans; State of Colorado; Interstate Transport of Pollution for the 2006 24-Hour $PM_{2.5}$ NAAQS, Proposed Rule, 80 FR 27121, 27124–27125 (May 12, 2015); Final Rule, 80 FR 47862 (August 10, 2015).

[7] *https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20111014_page_lead_caa_110_infrastructure_guidance.pdf.*

[8] Id. at pp 7–8.

[9] *See* 79 FR 27241 at 27249 (May 13, 2014) and 79 FR 41439 (July 16, 2014).

[10] EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 SO_2 NAAQS can be informed by similar factors found in this proposed rulemaking, but may not be identical to the approach taken in this or any future rulemaking for Vermont, depending on available information and state-specific circumstances.

be based solely on the fact that there are no data requirements rule (DRR) sources within the state. Therefore, EPA believes that a reasonable starting point for determining which sources and emissions activities in Vermont are likely to impact downwind air quality with respect to the SO_2 NAAQS is by using information in the NEI.[11] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources, and is updated every three years using information provided by the states. At the time of this rulemaking, the most recently available dataset is the 2014 NEI, and the state summary for Vermont is included in the table below.

TABLE 1—SUMMARY OF 2014 NEI SO_2 DATA FOR VERMONT

Category	Emissions (tons per year)
Fuel Combustion: Electric Utilities	2
Fuel Combustion: Industrial	442
Fuel Combustion: Other	891
Waste Disposal and Recycling	61
Highway Vehicles	65
Off-Highway	30
Miscellaneous	10
Total	1,501

The EPA observes that according to the 2014 NEI, the vast majority of SO_2 emissions in Vermont originate from fuel combustion at point and nonpoint sources. Therefore, an assessment of Vermont's satisfaction of all applicable requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2010 SO_2 NAAQS may reasonably be based upon evaluating the downwind impacts of emissions from the combined fuel combustion categories (*i.e.,* electric utilities, industrial processes, and other sources[12]).

The definitions contained in Appendix D to 40 CFR part 58 are helpful indicators of the travel and formation phenomenon for SO_2 originating from stationary sources in its stoichiometric gaseous form in the context of the 2010 primary SO_2 NAAQS. Notably, section 4.4 of Appendix D titled, ''Sulfur Dioxide (SO_2) Design Criteria'' provides definitions for SO_2 Monitoring Spatial Scales for microscale, middle scale, neighborhood, and urban scale monitors. The microscale includes areas in close proximity to SO_2 point and area sources, and those areas extend approximately 100 meters from a facility. The middle scale generally represents air quality levels in areas 100 meters to 500 meters from a facility, and may include locations of maximum expected short-term concentrations due to the proximity of major SO_2 point, area, and non-road sources. The neighborhood scale characterizes air quality conditions between 0.5 kilometers and 4 kilometers from a facility, and emissions from stationary and point sources may under certain plume conditions, result in high SO_2 concentrations at this scale. Lastly, the urban scale is used to estimate concentrations over large portions of an urban area with dimensions of 4 to 50 kilometers from a facility, and such measurements would be useful for assessing trends and concentrations in area-wide air quality, and hence, the effectiveness of large-scale pollution control strategies. Based on these definitions contained in EPA's own regulations, we believe that it is appropriate to examine the impacts of emissions from electric utilities and industrial processes in Vermont in distances ranging from 0 km to 50 km from the facility. In other words, SO_2 emissions from stationary sources in the context of the 2010 primary NAAQS do not exhibit the same long-distance travel, regional transport or formation phenomena as either ozone or $PM_{2.5,}$ but rather, these emissions behave more like Pb with localized dispersion. Therefore, an assessment up to 50 kilometers from potential sources would be useful for assessing trends and SO_2 concentrations in area-wide air quality.[13]

The largest category of SO_2 emissions in Table 1 is for ''other'' fuel combustion sources. The majority of emissions in this category is from residential fuel combustion (758 tons per year), or 50% of the total statewide SO_2 emissions for 2014. Residential homes combusting fuel are considered nonpoint sources. For any state where the SO_2 contribution from nonpoint sources make up a majority of all statewide SO_2 emissions, EPA believes it is reasonable to evaluate any regulations intended to address fuel oil, specifically with respect to the sulfur content in order to determine interstate transport impacts from the category of ''other'' sources of fuel combustion.

Our current implementation strategy for the 2010 primary SO_2 NAAQS includes the flexibility to characterize air quality for stationary sources via either data collected at ambient air quality monitors sited to capture the points of maximum concentration, or air dispersion modeling.[14] Our assessment of SO_2 emissions from fuel combustion categories in the State and their potential impacts on neighboring states are informed by all available data at the time of this rulemaking, and include: SO_2 ambient air quality; SO_2 emissions and SO_2 emissions trends; SIP-approved SO_2 regulations and permitting requirements; and, other SIP-approved or federally promulgated regulations which may yield reductions of SO_2.

V. Interstate Transport Demonstration for SO_2 Emissions

A. Prong 1 Analysis—Significant Contribution to SO_2 Nonattainment

Prong 1 of the good neighbor provision requires state plans to prohibit emissions that will significantly contribute to nonattainment of a NAAQS in another state. In order to evaluate Vermont's satisfaction of prong 1, EPA evaluated the State's SIP submission in relation to the following five factors: (1) The impact on the Central New Hampshire Nonattainment Area; (2) SO_2 emission trends for Vermont and neighboring states; (3) SO_2 ambient air quality data; (4) SIP-approved regulations specific to SO_2 emissions and permit requirements; and (5) other SIP-approved or federally-enforceable regulations that, while not directly intended to address or reduce SO_2 emissions, may yield reductions of the pollutant. A detailed discussion of each of these factors is below.

1. Impact on the Central New Hampshire Nonattainment Area

The nearest nonattainment area to Vermont for the 2010 SO_2 NAAQS is in New Hampshire. On August 5, 2013, EPA designated the Central New Hampshire Nonattainment Area, an area surrounding Merrimack Station, a coal-fired power plant, as nonattainment for the 2010 SO_2 NAAQS. *See* 78 FR 47191. On September 28, 2017, EPA proposed approval of New Hampshire's attainment plan for this nonattainment area. *See* 82 FR45242. The State's plan did not rely on any reductions in SO_2 emissions from sources in Vermont to demonstrate the Central New Hampshire Nonattainment Area will attain the 2010 SO_2 NAAQS by the 2018

[11] *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory.*

[12] The ''other'' category of fuel combustion in Vermont is comprised almost entirely of residential heating through fuel oil and wood combustion.

[13] EPA recognizes in Appendix A.1 titled, ''AERMOD (AMS/EPA Regulatory Model)—'' of Appendix W to 40 CFR part 51 that the model is appropriate for predicting SO_2 up to 50 kilometers.

[14] *https://www.epa.gov/so2-pollution/2010-1-hour-sulfur-dioxide-so2-primary-national-ambient-air-quality-standards-naaqs.*

attainment date. Furthermore, no comments received on EPA's proposed approval of the State's plan suggest SO_2 emissions from sources in Vermont should be considered in any attainment demonstration.[15]

2. SO_2 Emissions Trends

As noted above, EPA's approach for addressing the interstate transport of SO_2 in Vermont is based upon emissions from fuel combustion at electric utilities, industrial sources, and residential heating. As part of the SIP submittal, Vermont observed that, in accordance with the most recently available designations guidance at the time,[16] there were no facilities in Vermont with reported actual emissions greater than or equal to 500 tons per year of SO_2 in 2014.

According to the 2014 NEI data, the highest SO_2 emissions from a single point source was 158 tons from Agrimark in Middlebury, Vermont and the next largest emitter of SO_2 from an industrial or electric generating facility in Vermont was Fibermark, located in Brattleboro, which emitted 12 tons of SO_2.

As demonstrated by the data in Table 2, statewide SO_2 emissions in Vermont and in its three neighboring states, New Hampshire, Massachusetts and New York, have significantly decreased over time. This decreasing trend should continue into the near future in Vermont, New York, and Massachusetts as these three states have adopted strategies to lower the sulfur content (by weight) of fuel oil.[17] By July 1, 2018, the home heating oil in these three states will be limited to 15 parts per million (ppm) of sulfur by weight.

TABLE 2—STATEWIDE SO_2 DATA (Tons per Year) FOR VERMONT, NEW HAMPSHIRE, NEW YORK, AND MASSACHUSETTS [18]

State	2000	2005	2010	2016	% Change from 2000 to 2016
Vermont	9,438	7,038	3,659	1,455	−85
New Hampshire	68,768	63,634	35,716	5,462	−92
Massachusetts	208,146	139,937	57,892	13,518	−94
New York	543,868	386,568	170,247	59,520	−89

3. SO_2 Ambient Air Quality

Data collected at an ambient air quality monitor located in Rutland, Vermont indicates that the monitored values of SO_2 in the State have remained below the NAAQS. Relevant data from Air Quality Standards (AQS) Design Value (DV) [19] reports for recent and complete 3-year periods are summarized in Table 3.

TABLE 3—TREND IN SO_2 DESIGN VALUES FOR THE AQS MONITOR IN VERMONT

AQS monitor site	Monitor location	2012–2014 DV (ppb)	2013–2015 DV (ppb)	2014–2016 DV (ppb)
50–021–0002	Rutland	13	9	6

As shown in Table 3 above, the DVs at the Rutland monitor for all periods between 2012 and 2016 have decreased. The most recent DV for the Rutland monitor, covering the years 2014–2016, is 6 ppb, which is 92% below the NAAQS.[20]

However, the absence of a violating ambient air quality monitor within the State is insufficient to demonstrate that Vermont has met its interstate transport obligation. While the decreasing DVs may help to assist in characterizing air quality within Vermont, prong 1 of section 110(a)(2)(D)(i)(I) specifically addresses what effects sources within Vermont may have on air quality in neighboring states. Therefore, an evaluation and analysis of SO_2 emissions data from facilities within the State, together with the potential effects of such emissions on ambient air quality in neighboring states, is appropriate.

As previously discussed, EPA's definitions of spatial scales for SO_2 monitoring networks indicate that the maximum impacts from stationary sources can be expected within 4 kilometers of such sources, and that distances up to 50 kilometers would be useful for assessing trends and concentrations in area-wide air quality. The only neighboring states within 50 km of an SO_2 source in Vermont are Massachusetts, New Hampshire, and New York. As a result, no further analysis of other Northeast states was conducted for assessing the impacts of the interstate transport of SO_2 pollution from facilities located in Vermont.

There are four ambient SO_2 monitors operating in Massachusetts, New Hampshire, and New York within 50 km of Vermont's border. These monitors are identified in Table 4, along with those monitors' DVs for SO_2 in the last three, three-year periods. As shown in Table 4, SO_2 DVs for these monitors are decreasing, with the exception of Wilmington, NY which increased 1 ppb between the 2013–2015 and 2014–2016

[15] *See* docket for Air Plan Approval; NH; Attainment Plan for the Central New Hampshire 2010 1-Hour SO_2 Nonattainment Area at *https://www.regulations.gov/docket?D=EPA-R01-OAR-2017-0083.*

[16] March 24, 2011 guidance document titled, ''Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards.'' *See, e.g., http://dnr.wi.gov/topic/AirQuality/documents/SO2DesignationsGuidance2011.pdf.*

[17] On May 22, 2012, EPA approved Vermont's low sulfur fuel regulation. *See* 77 FR 30212. On September 19, 2013, EPA approved Massachusetts' low sulfur fuel regulation. *See* 78 FR 57487. On August 8, 2012, EPA approved New York's low sulfur fuel statute. *See* 77 FR 51915.

[18] *See* Air Pollution Emissions Trend Data at *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.*

[19] A ''Design Value'' is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. The interpretation of the 2010 primary SO_2 NAAQS (set at 75 parts per billion [ppb]) including the data handling conventions and calculations necessary for determining compliance with the NAAQS can be found in Appendix T to 40 CFR part 50.

[20] There is another ambient monitor in Underhill, Vermont that only had a valid DV for 2014–2016. The DV was 2 ppb.

periods. The highest DV for the most recent DV period (between 2014–2016) is 8% of the NAAQS.

TABLE 4—TREND IN SO_2 DESIGN VALUES FOR AQS MONITORS WITHIN 50 km OF VERMONT

AQS monitor site	Monitor location	2012–2014 DV (ppb)	2013–2015 DV (ppb)	2014–2016 DV (ppb)
25–015–4002	Quabbin Summit, MA	6	5	4
33–011–5001	Pack Monadock, NH	5	5	3
36–001–00012	Loudonville Reservoir, NY	8	8	6
36–031–0003	Wilmington, NY	3	3	4

4. Federally Enforceable Regulations Specific to SO_2 and Permitting Requirements

The State has various regulations to ensure that SO_2 emissions are not expected to substantially increase in the future. One notable example consists of the federally-enforceable conditions contained in Vermont's Air Pollution Control Regulation (APCR), Subchapter II, Section 5–221, ''Prohibition of Pollution Potential Materials in Fuel.'' This regulation, last approved by EPA into the SIP on May 22, 2012 (77 FR 30212) limits the amount of sulfur by weight in fuel oil. As discussed earlier in this document, the 2014 NEI indicates that the single largest, albeit diffuse, source category of SO_2 emissions in Vermont is from fuel combustion for residential heating (891 tons). Starting on July 1, 2014 the sulfur content for home heating oil in Vermont was lowered to 500 parts per million (ppm), or 0.05% by weight. An additional reduction in the amount of SO_2 emissions from the use of home heating oil will occur after July 1, 2018 when the sulfur content will be reduced from 500 ppm to 15 ppm or 0.0015% by weight, representing a 97% decrease in SO_2 emissions from residential oil combustion.

In addition, for the purposes of ensuring that SO_2 emissions at new or modified stationary sources in Vermont do not adversely impact air quality, the State's SIP-approved nonattainment new source review (NNSR) and prevention of significant deterioration (PSD) programs are contained in APCR, Subchapter V ''Review of New Air Contaminant Sources.'' This regulation ensures that SO_2 emissions due to new facility construction or to modifications at existing facilities will not adversely impact air quality in Vermont and will likely not adversely impact air quality in neighboring states.

Finally, in addition to the State's SIP-approved regulations, EPA observes that facilities in Vermont are also subject to the federal requirements contained in regulations such as the National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters. This regulation reduces acid gases, which have a co-benefit of reducing SO_2 emissions.

5. Conclusion

As discussed, EPA has considered the following information in evaluating the State's satisfaction of the requirements of prong 1 of CAA section 110(a)(2)(D)(i)(I):

(1) Past and projected SO_2 emission trends demonstrate that ambient SO_2 air quality issues in neighboring states are unlikely to occur due to SO_2 emissions from sources in Vermont; and

(2) Current SIP provisions and other federal programs will further reduce SO_2 emissions from sources within Vermont.

Based on the analysis provided by the State in its November 2, 2015 SIP submission and based on each of the factors listed above, EPA proposes to find that any sources or other emissions activity within the State will not contribute significantly to nonattainment of the 2010 primary SO_2 NAAQS in any other state.

B. Prong 2 Analysis—Interference With Maintenance of the SO_2 NAAQS

Prong 2 of the good neighbor provision requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state. Given the continuing trend of decreased SO_2 emissions from sources within Vermont, EPA believes that a reasonable criterion to ensure that sources or other emissions activity originating within Vermont do not interfere with its neighboring states' ability to maintain the NAAQS consists of evaluating whether these decreases in emissions can be maintained over time.

As shown in Table 2, above, state-wide SO_2 emissions in Vermont, and the three neighboring states of Massachusetts, New Hampshire, and New York, have significantly decreased since 2000. Three of these states (Massachusetts, New York, and Vermont) have EPA-approved low sulfur fuel oil requirements in their SIPs, requiring the sulfur content in home heating oil and other sources using distillate oil to be lowered by an additional 97% no later than July 1, 2018.[21] According to 2014 NEI data, home heating oil is the largest category of SO_2 emissions in three of the states, Vermont, Massachusetts, and New Hampshire. In New York, home heating oil was not the largest category of SO_2 emissions in the 2014 NEI because the sulfur content in home heating oil was reduced by the State to 15 ppm on July 1, 2012.

Utilizing home heating oil usage data from the U. S. Energy Information Administration and SIP-approved limits on the sulfur content of home heating oil, future SO_2 emissions from home heating oil can be forecasted in Massachusetts and Vermont where the reduction in sulfur content to 15 ppm will not take effect until July 1, 2018. According to EPA's guidance titled ''Compilation of Air Pollutant Emission Factors (AP42)'' Chapter 1.3 titled, ''Fuel Oil Combustion,'' [22] more than 95% of the sulfur in fuel is converted to SO_2. Table 5 provides the estimated SO_2 emissions from Massachusetts and Vermont based on home heating oil usage in 2016 and using the average annual home heating oil usage over a five-year period (2012–2016) [23] to estimate the SO_2 emissions in 2019, when the sulfur content limit of 15 ppm will be in place for the entire calendar year heating season.

[21] *See* 77 FR 30212 (May 22, 2012) for Vermont, 78 FR 57487 (September 19, 2013) for Massachusetts, and 77 FR 51915 (August 8, 2012), for New York.

[22] *See* emission factors at *https://www3.epa.gov/ttn/chief/ap42/ch01/final/c01s03.pdf.*

[23] *See* residential fuel oil usage at *https://www.eia.gov/dnav/pet/pet_cons_821usea_a_epd0_var_mgal_a.htm.*

TABLE 5—ESTIMATED SO_2 EMISSIONS FROM HOME HEATING OIL

State	Average home heating oil usage 2012–2016 (1,000 gal)	Estimate of SO_2 emissions (tons) from households using oil (2016)	Estimate of SO_2 emissions (tons) from households using oil (2019)
Vermont	70,701	254	8
Massachusetts	545,075	1,643	58

While EPA does not currently have a way to quantify the impacts of multiple small, diffuse sources of SO_2 on air quality in neighboring states, the drastic decrease in the allowable sulfur content in fuel oil in Vermont and the associated reductions in SO_2 emissions, combined with the diffuse nature of these emissions, makes it unlikely that the current and future emissions from residential combustion of fuel oil are likely to lead to interference of maintenance of the NAAQS in a neighboring state. Specifically, by 2018, in both Massachusetts and Vermont, the yearly SO_2 emissions from a household using 1,000 gallons of fuel oil will drop to under 0.21 pounds per year.

As shown in Table 2, statewide SO_2 emissions in Vermont have decreased over time. Several factors have caused this decrease in emissions, including the effective date of APCR Subchapter II, Section 5–221 and industrial boilers switching to lower sulfur emitting fuels due to economics. According to emission trends data,[24] SO_2 emissions from industrial sources decreased in Vermont by almost 90% from 2000 to 2016. The EPA believes that since actual SO_2 emissions from the facilities currently operating in Vermont have decreased between 2000 and 2016, this trend shows that emissions originating in Vermont are not expected to interfere with the neighboring states' ability to maintain the 2010 SO_2 NAAQS.

As discussed above, EPA expects SO_2 from point sources combusting fuel oil in Vermont will be lower in the future due to the lowering of the sulfur content in fuels as required by APCR Subchapter II, Section 5–221.

Lastly, any future large sources of SO_2 emissions will be addressed by Vermont's SIP-approved Prevention of Significant Deterioration (PSD) program. Future minor sources of SO_2 emissions will be addressed by the State's minor new source review permit program. The permitting regulations contained within these programs, along with the other factors already discussed, are expected to help ensure that ambient concentrations of SO_2 in Massachusetts, New Hampshire or New York are not exceeded as a result of new facility construction or modification occurring in Vermont.

It is also worth noting the air quality trends for ambient SO_2 in the Northeastern United States.[25] This region has experienced a 77% decrease in the annual 99th percentile of daily maximum 1-hour averages between 2000 and 2015 based on 46 monitoring sites, and the most recently available data for 2015 indicates that the mean value at these sites was 17.4 ppb, a value less than 25% of the NAAQS. When this trend is evaluated alongside the monitored SO_2 concentrations within the State of Vermont as well as the SO_2 concentrations recorded at monitors in Massachusetts, New York, and New Hampshire within 50 km of Vermont's border, EPA does not believe that sources or emissions activity from within Vermont are significantly different than the overall decreasing monitored SO_2 concentration trend in the Northeast region. As a result, EPA finds it unlikely that sources or emissions activity from within Vermont will interfere with other states' ability to maintain the 2010 primary SO_2 NAAQS.

Based on each of factors contained in the prong 2 maintenance analysis above, EPA proposes to find that sources or other emissions activity within the State will not interfere with maintenance of the 2010 primary SO_2 NAAQS in any other state.

VI. Proposed Action

Considering the above analysis, EPA is proposing to approve Vermont's November 2, 2015 infrastructure submittal for the 2010 primary SO_2 NAAQS as it pertains to Section 110(a)(2)(D)(i)(I) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VII. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

[24] *See* Air Pollution Emissions Trend Data at *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data.*

[25] *See https://www.epa.gov/air-trends/sulfur-dioxide-trends.*

application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 2, 2018.

Alexandra Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–07231 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0344; FRL–9976–01–Region 1]

Air Plan Approval; New Hampshire; Infrastructure State Implementation Plan Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of two State Implementation Plan (SIP) submissions from New Hampshire which address the infrastructure and interstate transport requirements of the Clean Air Act (CAA or Act) for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before May 10, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0344 at *www.regulations.gov,* or via email to *simcox.alison@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed 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 *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. (617) 918–1684; *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose

A. What New Hampshire SIP submissions does this rulemaking address?

This rulemaking addresses two submissions from the New Hampshire Department of Environmental Services (NHDES). The state submitted its infrastructure SIP for the 2012 fine particle $PM_{2.5}$ [1] National Ambient Air Quality Standard (NAAQS) on December 22, 2015. Subsequently, on June 8, 2016, the state submitted a SIP addressing the ''Good Neighbor'' (or ''transport'') provisions for the 2012 $PM_{2.5}$ NAAQS (Section 110(a)(2)(D)(i)(I) of the CAA). Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 $PM_{2.5}$ NAAQS.

B. What is the scope of this rulemaking?

EPA is acting on two related SIP submissions from New Hampshire that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2012 $PM_{2.5}$ NAAQS.

The requirement for states to make a SIP submission of this type arises out of CAA sections 110(a)(1) and 110(a)(2). Pursuant to these sections, each state must submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. States must make such SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a new or revised NAAQS.'' This requirement is triggered by the promulgation of a new or revised NAAQS and is not conditioned upon EPA's taking any other action. Section

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, often referred to as ''fine'' particles.

110(a)(2) includes the specific elements that ''each such plan'' must address.

EPA commonly refers to such SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (''SSM'' emissions) that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (''director's discretion''); and, (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final New Source Review (NSR) Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas separately. A detailed history, interpretation, and rationale for EPA's approach to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' *See* 79 FR 27241 at 27242–45.

II. What guidance is EPA using to evaluate these SIP submissions?

EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 guidance). EPA has issued additional guidance documents and memoranda, including a September 13, 2013, guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (2013 guidance).[2]

With respect to the Good Neighbor provision, the most recent relevant document was a memorandum published on March 17, 2016, entitled ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (2016 memorandum). The 2016 memorandum describes EPA's past approach to addressing interstate transport, and provides EPA's general review of relevant modeling data and air quality projections as they relate to the 2012 annual $PM_{2.5}$ NAAQS. The 2016 memorandum provides information relevant to EPA Regional office review of the CAA section 110(a)(2)(D)(i)(I) ''Good Neighbor'' provision requirements in infrastructure SIPs with respect to the 2012 annual $PM_{2.5}$ NAAQS. This rulemaking considers information provided in that memorandum.

III. EPA's Review

In this notice of proposed rulemaking, EPA is proposing action on two related SIP submissions from the state of New Hampshire. In New Hampshire's submissions, a detailed list of New Hampshire Laws and previously SIP-approved Air Quality Regulations show precisely how the various components of its EPA-approved SIP meet each of the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. The following review evaluates the state's submissions in light of section 110(a)(2) requirements and relevant EPA guidance.

For New Hampshire's December 22, 2015 submission addressing the 2012 $PM_{2.5}$ NAAQS, we reviewed all Section 110(a)(2) elements, including the transport provisions, but excluding the three areas discussed above under the scope of this rulemaking. For the state's June 8, 2016, submission, which further addresses the transport provisions with respect to the 2012 $PM_{2.5}$ NAAQS, we reviewed infrastructure elements in Section 110(a)(2)(D)(i)(I).

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section (also referred to in this action as an element) of the Act requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[3] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

New Hampshire's Revised Statutes Annotated (RSA) at Chapter 21–O established the New Hampshire Department of Environmental Services (NHDES) and RSA Chapter 125–C provides the Commissioner of NHDES with the authority to develop rules and regulations necessary to meet state and Federal ambient air quality standards. New Hampshire also has SIP-approved emission limits and other measures for specific pollutants. For example, Chapter Env-A 400 ''Sulfur content limits in fuels'' (57 FR 36603, August 14, 1992); Chapter Env-A 1200 ''Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT)'' (77 FR 66921, November 8, 2012; 81 FR 53926, August 15, 2016); Chapter Env-A 1300 ''Nitrogen Oxides (NO_X) RACT'' (79 FR 49458, August, 21, 2014); Chapter Env-A 2100 ''Particulate Matter and Visible Emissions Standards'' (81 FR 78052, November 7, 2016); Chapter Env-A 2700 ''Particulate Matter emission standards for hot mix asphalt plants'' (81 FR 78052, November 7, 2016); and Chapter Env-A 2800 ''Emission standards for sand and gravel sources, non-metallic mineral processing plants, cement and concrete sources'' (81 FR 78052, November 7, 2016).

EPA proposes that New Hampshire meets the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2012 $PM_{2.5}$ NAAQS. As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making

[2] This memorandum and other referenced guidance documents and memoranda are included in the docket for this action.

[3] *See, e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (November 12, 2008).

these data available to EPA upon request. Each year, states submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

NHDES continues to operate a monitoring network, and EPA approved the state's 2017/2018 Annual Network Review and Plan on August 23, 2017.[4] Furthermore, NHDES populates EPA's Air Quality System (AQS) with air quality monitoring data in a timely manner, and provides EPA with prior notification when considering a change to its monitoring network or plan. Under element B of its December 22, 2015 infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS, NHDES referenced EPA's prior approvals of New Hampshire's annual network monitoring plans, as well as RSA Chapter 125–C:6 III, IV and XVI, which provide the Commissioner with ''the power and duty to conduct studies related to air quality, to disseminate the results, and to assure the reliability and accuracy of monitoring equipment to meet federal EPA standards.'' EPA proposes that NHDES has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and (iii) a permit program for minor sources and minor modifications.

Sub-Element 1: Enforcement of SIP Measures

NHDES staffs and implements an enforcement program pursuant to RSA Chapter 125–C, Air Pollution Control, of the New Hampshire Statutes. Specifically, RSA Chapter 125–C:15, Enforcement, authorizes the Commissioner of the NHDES or the authorized representative of the Commissioner, upon finding a violation of Chapter 125–C has occurred, to issue a notice of violation or an order of abatement, and to include within it a schedule for compliance. Additionally, RSA 125–C:15 I–b, II, III, and IV provide for penalties for violations of Chapter 125–C. EPA proposes that New Hampshire has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: PSD Program for Major Sources and Major Modifications

PSD applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of, or unclassifiable with regard to, the relevant NAAQS. The EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS demonstrating that the air agency has a complete PSD permitting program in place satisfying the current requirements for all regulated NSR pollutants. NHDES's EPA-approved PSD rules, contained at Part Env-A 619, contain provisions that address applicable requirements for all regulated NSR pollutants, including greenhouse gases (GHGs).

With respect to current requirements for $PM_{2.5}$, we evaluate New Hampshire's PSD program for consistency with two EPA rules. The first is a final rule issued May 16, 2008, entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). *See* 73 FR 28321. The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation, including requirements for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. As part of identifying precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Finally, the 2008 NSR Rule requires states to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011.[5] These requirements are codified in 40 CFR 51.166(b) and 52.21(b). States were required to revise their SIPs consistent with these changes to the federal regulations.

The second is a final rule issued October 20, 2010, entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). *See* 75 FR 64864. This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including adding the required elements for $PM_{2.5}$ into a state's existing system of ''increment analysis,'' which is the mechanism used in the PSD permitting program to estimate significant deterioration of ambient air quality for a pollutant in relation to new source construction or modification. The 2010 NSR Rule revised the existing system for determining increment consumption by establishing a new ''major source baseline date'' for $PM_{2.5}$ and by establishing a trigger date for $PM_{2.5}$ in relation to the definition of ''minor source baseline date.'' Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. These requirements are codified in 40 CFR 51.166(b) and (c) and in 40 CFR 52.21(b) and (c). States were required to revise their SIPs consistent with these changes to the federal regulations.

New Hampshire implements the PSD program by, for the most part, incorporating by reference the federal PSD program at 40 CFR 52.21, as it existed on a specific date. The State periodically updates the PSD program by revising the date of incorporation by reference and submitting the change as a SIP revision. As a result, the SIP revisions generally reflect changes to PSD requirements that the EPA has

[4] EPA's approval letter is included in the docket for this action.

[5] On January 4, 2013, the U.S. Court of Appeals for the DC Circuit held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1. *Nat. Res. Def. Council* v. *EPA,* 706 F.3d 428. The EPA's approval of New Hampshire's infrastructure SIP as to elements C, D(i)(II), or J with respect to the PSD requirements promulgated by the 2008 NSR Rule does not conflict with the court's opinion. For more information, *see* 80 FR 42446, July 17, 2015).

promulgated prior to the revised date of incorporation by reference. To address the 2008 NSR Rule and the 2010 NSR Rule, New Hampshire submitted revisions to its PSD regulations on November 15, 2012, that incorporated by reference the federal PSD program codified in the July 1, 2011, edition of 40 CFR 52.21. On September 25, 2015, EPA approved these revisions into the SIP as incorporating the necessary changes obligated by the 2008 NSR Rule and the 2010 NSR Rule. *See* 80 FR 57722.

Similarly, New Hampshire's revisions submitted on November 15, 2012, also satisfy the requirements of EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) published on November 29, 2005. *See* 70 FR 71612. Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone. *See id.* at 71699–700. The required revisions to the federal PSD program are codified in 40 CFR 51.166(b) and (i) and in 40 CFR 52.21(b) and (i). By incorporating the Federal provisions at 40 CFR 52.21(b) and (i) as of July 1, 2011, the New Hampshire's November 15, 2012, submittal also included the revisions made to the PSD program by the Phase 2 Rule in 2005 regarding NO_X as a precursor to ozone. *See* Env-A 619.03(a). Thus, EPA proposes that New Hampshire's PSD program is consistent with the requirements of the Phase 2 Rule.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Envtl. Prot. Agency,* 134 S.Ct. 2427. The Supreme Court said that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by EPA, the application of the BACT requirement to GHG emissions from Step 1 or ''anyway'' sources. With respect to Step 2 sources, the D.C. Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification.''

In the **Federal Register** at 80 FR 50199, August 19, 2015, EPA amended its PSD and Title V regulations to remove from the Code of Federal Regulations portions of those regulations that the D.C. Circuit specifically identified as vacated. EPA intends to further revise the PSD and Title V regulations to fully implement the Supreme Court and D.C. Circuit rulings in a separate rulemaking. This future rulemaking will include revisions to additional definitions in the PSD regulations.

Some states have begun to revise their existing SIP-approved PSD programs in light of these court decisions, and some states may prefer not to initiate this process until they have more information about the additional planned revisions to EPA's PSD regulations. EPA is not expecting states to have revised their PSD programs in anticipation of EPA's additional actions to revise its PSD program rules in response to the court decisions for purposes of infrastructure SIP submissions. At present, EPA has determined that New Hampshire's SIP is sufficient to satisfy element C with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved New Hampshire PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy element C. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of New Hampshire's infrastructure SIP as to the requirements of element C.

For the purposes of the 2012 $PM_{2.5}$ NAAQS infrastructure SIP, EPA reiterates that NSR Reform regulations are not in the scope of these actions. Therefore, we are not taking action on existing NSR Reform regulations for New Hampshire.

Therefore, the EPA is proposing to approve New Hampshire's infrastructure SIP for the 2012 2012 $PM_{2.5}$ NAAQS with respect to the requirement in section 110(a)(2)(C) to include a PSD permitting program in the SIP that covers the requirements for all regulated NSR pollutants as required by part C of the Act.

Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulate emissions of the relevant NAAQS pollutants. EPA approved New Hampshire's minor NSR program on September 22, 1980 (45 FR 62814), and approved updates to the program on August 14, 1992 (57 FR 36606). Since this date, New Hampshire and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ NAAQS.

We are proposing to find that New Hampshire has met the requirement to have a SIP approved minor new source review permit program as required under Section 110(a)(2)(C) for the 2012 $PM_{2.5}$ NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

This section contains a comprehensive set of air quality management elements pertaining to the transport of air pollution with which states must comply. It covers the following five topics, categorized as sub-elements: Sub-element 1, Significant contribution to nonattainment, and interference with maintenance of a NAAQS;[6] Sub-element 2, PSD; Sub-element 3, Visibility protection; Sub-element 4, Interstate pollution abatement; and Sub-element 5, International pollution abatement. Sub-elements 1 through 3 above are found under section 110(a)(2)(D)(i) of the Act, and these items are further categorized into the four prongs discussed below, two of which are found within sub-element 1. Sub-elements 4 and 5 are found under section 110(a)(2)(D)(ii) of the Act and include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Sub-Element 1: Section 110(a)(2)(D)(i)(I)—Contribute to Nonattainment (Prong 1) and Interfere With Maintenance of the NAAQS (Prong 2)

Section 110(a)(2)(D)(i)(I) of the CAA requires a SIP to prohibit any emissions activity in the state that will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any downwind state. EPA commonly refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the ''Good Neighbor'' or ''transport'' provisions of the CAA. This rulemaking proposes action on the portions of New Hampshire's December 22, 2015 and June 8, 2016, SIP submissions that address the prong 1 and 2 requirements with respect to the 2012 $PM_{2.5}$ NAAQS.

EPA has developed a consistent framework for addressing the prong 1 and 2 interstate-transport requirements with respect to the $PM_{2.5}$ NAAQS in several previous federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to $PM_{2.5}$ in the Cross-State Air Pollution Rule (CSAPR), which addressed both the 1997 and 2006 $PM_{2.5}$ standards, as well as the 1997 ozone standard. *See* 76 FR 48208 (August 8, 2011).

EPA's analysis for CSAPR, conducted consistent with the four-step framework, included air-quality modeling that evaluated the impacts of 38 eastern states on identified receptors in the eastern United States. EPA indicated that, for step 2 of the framework, states with impacts on downwind receptors that are below the contribution threshold of 1% of the relevant NAAQS would not be considered to significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS, and would, therefore, not be included in CSAPR. *See* 76 FR 48220. EPA further indicated that such states could rely on EPA's analysis for CSAPR as technical support in order to demonstrate that their existing or future interstate transport SIP submittals are adequate to address the transport requirements of 110(a)(2)(D)(i)(I) with regard to the relevant NAAQS. *Id.*

In addition, as noted above, on March 17, 2016, EPA released the 2016 memorandum to provide information to states as they develop SIPs addressing the Good Neighbor provision as it pertains to the 2012 $PM_{2.5}$ NAAQS. Consistent with step 1 of the framework, the 2016 memorandum provides projected future-year annual $PM_{2.5}$ design values for monitors throughout the country based on quality-assured and certified ambient-monitoring data and recent air-quality modeling and explains the methodology used to develop these projected design values. The memorandum also describes how the projected values can be used to help determine which monitors should be further evaluated to potentially address if emissions from other states significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS at these monitoring sites. The 2016 memorandum explained that the pertinent year for evaluating air quality for purposes of addressing interstate transport for the 2012 $PM_{2.5}$ NAAQS is 2021, the attainment deadline for 2012 $PM_{2.5}$ NAAQS nonattainment areas classified as Moderate. Accordingly, because the available data included 2017 and 2025 projected average and maximum $PM_{2.5}$ design values calculated through the CAMx photochemical model, the memorandum suggests approaches states might use to interpolate $PM_{2.5}$ values at sites in 2021.

For all but one monitor site in the eastern United States, the modeling data provided in the 2016 memorandum showed that monitors were expected to both attain and maintain the 2012 $PM_{2.5}$ NAAQS in both 2017 and 2025. The modeling results project that this one monitor, the Liberty monitor, (ID number 420030064), located in Allegheny County, Pennsylvania, will be above the 2012 annual $PM_{2.5}$ NAAQS in 2017, but only under the model's maximum projected conditions, which are used in EPA's interstate transport framework to identify maintenance receptors. The Liberty monitor (along with all the other Allegheny County monitors) is projected to both attain and maintain the NAAQS in 2025. The 2016 memorandum suggests that under such a condition (again, where EPA's photochemical modeling indicates an area will maintain the 2012 annual $PM_{2.5}$ NAAQS in 2025, but not in 2017), further analysis of the site should be performed to determine if the site may be a nonattainment or maintenance receptor in 2021 (which, again, is the attainment deadline for moderate $PM_{2.5}$ areas). The memorandum also indicates that for certain states with incomplete ambient monitoring data, additional information including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions. This rulemaking considers these analyses for New Hampshire, as well as additional analysis conducted by EPA during review of New Hampshire's submittals.

To develop the projected values presented in the memorandum, EPA used the results of nationwide photochemical air-quality modeling that it recently performed to support several rulemakings related to the ozone NAAQS. Base-year modeling was performed for 2011. Future-year modeling was performed for 2017 to support the proposed CSAPR Update for

[6] For this sub-element *only,* we are evaluating two New Hampshire SIP submittals, the infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS submitted on December 22, 2015, and the supplemental Transport SIP for the 2012 $PM_{2.5}$ NAAQS submitted on June 8, 2016.

the 2008 Ozone NAAQS. *See* 80 FR 75705 (December 3, 2015). Future-year modeling was also performed for 2025 to support the Regulatory Impact Assessment of the final 2015 Ozone NAAQS.[7] The outputs from these model runs included hourly concentrations of $PM_{2.5}$ that were used in conjunction with measured data to project annual average $PM_{2.5}$ design values for 2017 and 2025. Areas that were designated as moderate $PM_{2.5}$ nonattainment areas for the 2012 annual $PM_{2.5}$ NAAQS in 2014 must attain the NAAQS by December 31, 2021, or as expeditiously as practicable. Although neither the available 2017 nor 2025 future-year modeling data corresponds directly to the future-year attainment deadline for moderate $PM_{2.5}$ nonattainment areas, EPA believes that the modeling information is still helpful for identifying potential nonattainment and maintenance receptors in the 2017–2021 period. Assessing downwind $PM_{2.5}$ air-quality problems based on estimates of air-quality concentrations in a future year aligned with the relevant attainment deadline is consistent with the instructions from the United States Court of Appeals for the District of Columbia Circuit in *North Carolina* v. *EPA,* 531 F.3d 896, 911–12 (DC Cir. 2008), that upwind emission reductions should be harmonized, to the extent possible, with the attainment deadlines for downwind areas.

New Hampshire's Submissions for Prongs 1 and 2

On December 22, 2015, NH DES submitted an infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS, which included transport provisions that addressed prongs 1 and 2 with respect to the 2012 $PM_{2.5}$ NAAQS. On June 8, 2016, New Hampshire submitted a supplement to the December 2015 SIP that provides a technical demonstration. The state's supplemental SIP relied in part on EPA's analysis performed for the CSAPR rulemaking to conclude that the state will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any downwind area.

EPA analyzed the state's December 2015 and June 2016 submittals to determine whether they fully address the prong 1 and 2 transport provisions with respect to the 2012 $PM_{2.5}$ NAAQS. As discussed below, EPA concludes that emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors (NO_X and SO_2) in New Hampshire will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state.

Analysis of New Hampshire's Submission for the 2012 $PM_{2.5}$ NAAQS

As noted above, the modeling discussed in EPA's 2016 memorandum identified one potential maintenance receptor for the 2012 $PM_{2.5}$ NAAQS at the Liberty monitor (ID number 420030064), located in Allegheny County. The memorandum also identified certain states with incomplete ambient monitoring data as areas that may require further analysis to determine whether there are potential downwind air quality problems that may be impacted by transported emissions.

While developing the 2011 CSAPR rulemaking, EPA modeled the impacts of all 38 eastern states in its modeling domain on fine particulate matter concentrations at downwind receptors in other states in the 2012 analysis year in order to evaluate the contribution of upwind states on downwind states with respect to the 1997 and 2006 $PM_{2.5}$. Although the modeling was not conducted for purposes of analyzing upwind states' impacts on downwind receptors with respect to the 2012 $PM_{2.5}$ NAAQS, the contribution analysis for the 1997 and 2006 standards can be informative for evaluating New Hampshire's compliance with the Good Neighbor provision for the 2012 standard.

This CSAPR modeling showed that New Hampshire had a very small impact (0.002 $\mu g/m^3$) on the Liberty monitor in Allegheny County, Pennsylvania, which is the only out-of-state monitor that may be a nonattainment or maintenance receptor in 2021. Although EPA has not proposed a particular threshold for evaluating the 2012 $PM_{2.5}$ NAAQS, EPA notes that New Hampshire's impact on the Liberty monitor is far below the threshold of 1% for the annual 2012 $PM_{2.5}$ NAAQS (*i.e.,* 0.12 $\mu g/m^3$) that EPA previously used to evaluate the contribution of upwind states to downwind air-quality monitors. (A spreadsheet showing CSAPR contributions for ozone and $PM_{2.5}$ is included in docket EPA–HQ–OAR–2009–0491–4228.) Therefore, even if the Liberty monitor were considered a receptor for purposes of transport, the EPA proposes to conclude that New Hampshire will not significantly contribute to nonattainment, or interfere with maintenance, of the 2012 $PM_{2.5}$ NAAQS at that monitor.

In addition, the Liberty monitor is already close to attaining the 2012 $PM_{2.5}$ NAAQS, and expected emissions reductions in the next four years will lead to additional reductions in measured $PM_{2.5}$ concentrations. There are both local and regional components to measured $PM_{2.5}$ levels. All monitors in Allegheny County have a regional component, with the Liberty monitor most strongly influenced by local sources. This is confirmed by the fact that annual average measured concentrations at the Liberty monitor have consistently been 2–4 $\mu g/m^3$ higher than other monitors in Allegheny County.

Specifically, previous CSAPR modeling showed that regional emissions from upwind states, particularly SO_2 and NO_X emissions, contribute to $PM_{2.5}$ nonattainment at the Liberty monitor. In recent years, large SO_2 and NO_X reductions from power plants have occurred in Pennsylvania and states upwind from the Greater Pittsburgh region. Pennsylvania's energy sector emissions of SO_2 will have decreased 166,000 tons between 2015–2017 as a result of CSAPR implementation. This is due to both the installation of emissions controls and retirements of electric generating units (EGUs). Projected power plant closures and additional emissions controls in Pennsylvania and upwind states will help further reduce both direct $PM_{2.5}$ and $PM_{2.5}$ precursors. Regional emission reductions will continue to occur from current on-the-books federal and state regulations such as the federal on-road and non-road vehicle programs, and various rules for major stationary emissions sources. *See* proposed approval of the Ohio Infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS (82 FR 57689; December 7, 2017).

In addition to regional emissions reductions and plant closures, additional local reductions to both direct $PM_{2.5}$ and SO_2 emissions are expected to occur and should contribute to further declines in Allegheny County's $PM_{2.5}$ monitor concentrations. For example, significant SO_2 reductions have recently occurred at US Steel's integrated steel mill facilities in southern Allegheny County as part of a 1-hr SO_2 NAAQS SIP.[8] Reductions are largely due to declining sulfur content in the Clairton Coke Work's coke oven gas (COG). Because this COG is burned at US Steel's Clairton Coke Works, Irvin Mill, and Edgar Thompson Steel Mill, these reductions in sulfur content should contribute to much lower $PM_{2.5}$ precursor emissions in the immediate future. The Allegheny SO_2 SIP also projects lower SO_2 emissions resulting

[7] *See* 2015 ozone NAAQS RIA at: *https://www3.epa.gov/ttnecas1/docs/20151001ria.pdf.*

[8] *http://www.achd.net/air/pubs/SIPs/SO2_2010_NAAQS_SIP_9-14-2017.pdf.*

from vehicle fuel standards, reductions in general emissions due to declining population in the Greater Pittsburgh region, and several shutdowns of significant sources of emissions in Allegheny County.

EPA modeling projections, the recent downward trend in local and upwind emissions reductions, the expected continued downward trend in emissions between 2017 and 2021, and the downward trend in monitored $PM_{2.5}$ concentrations all indicate that the Liberty monitor will attain and be able to maintain the 2012 annual $PM_{2.5}$ NAAQS by 2021. *See* proposed approval of the Ohio Infrastructure SIP (82 FR 57689).

As noted in the 2016 memorandum, several states have had recent data-quality issues identified as part of the $PM_{2.5}$ designations process. In particular, some ambient $PM_{2.5}$ data for certain time periods between 2009 and 2013 in Florida, Illinois, Idaho, Tennessee, and Kentucky did not meet all data-quality requirements under 40 CFR part 50, appendix L. The lack of data means that the relevant areas in those states could potentially be in nonattainment or be maintenance receptors in 2021. However, as mentioned above, EPA's analysis for the 2011 CSAPR rulemaking with respect to the 2006 $PM_{2.5}$ NAAQS determined that New Hampshire's impact to all these downwind receptors would be well below the 1% contribution threshold for this NAAQS. That conclusion informs the analysis of New Hampshire's contributions for purposes of the 2012 $PM_{2.5}$ NAAQS as well. Given this, and the fact, discussed below, that the state's $PM_{2.5}$ design values for all ambient monitors have been well below the 2012 $PM_{2.5}$ NAAQS since 2009–2013, EPA concludes that it is highly unlikely that New Hampshire significantly contributes to nonattainment or interferes with maintenance of the 2012 $PM_{2.5}$ NAAQS in areas with data-quality issues.[9]

Additional information in New Hampshire's 2016 supplemental SIP submission corroborates EPA's proposed conclusion that New Hampshire's SIPs meets its Good Neighbor obligations. The state's technical analysis in that submission includes 2012–2014 24-hr and annual average $PM_{2.5}$ monitoring data for New Hampshire and the contiguous states of Massachusetts, Maine, and Vermont; projected maximum 2017 and 2025 design values for New Hampshire and contiguous states; as well as meteorology and New Hampshire $PM_{2.5}$ control programs. The annual and design values from all monitors in New Hampshire and neighboring states show compliance with the 2012 $PM_{2.5}$ NAAQS. This technical analysis is supported by additional indications that, in most areas of the state, air quality is improving and emissions are falling. Specifically, certified annual $PM_{2.5}$ monitor values recorded since 2014 show that the highest value in 2015 was 8.7 $\mu g/m^3$ at a monitor in Keene, and the highest value in 2016 was 6.7 $\mu g/m^3$ at the same monitor in Keene, with many monitors continuing to show declines as indicated by 2017 preliminary results.[10]

Second, New Hampshire's sources are well-controlled. New Hampshire's 2016 submission indicates that the state has many SIP-approved rules and programs that limit emissions of $PM_{2.5}$ and the interstate transport of pollution, including Chapter Env-A 300 (Ambient air quality standards), Part Env-A 619 (PSD), Part Env-A 618 (NNSR), Chapter Env-A 2300 (Mitigation of Regional Haze), Chapter Env-A 800 (Testing and monitoring procedures), and Chapter Env-A 900 (Recordkeeping and reporting obligations), as well as delegation for a Title V permitting program.

It should also be noted that New Hampshire is not in the CSAPR program because EPA analyses show that the state does not emit ozone-season NO_X at a level that contributes significantly to non-attainment or interferes with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other state.

For the reasons explained herein, EPA agrees with New Hampshire's conclusions and proposes to determine that New Hampshire will not significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS in any other state. Therefore, EPA is proposing to approve the December 2015 and June 2016 infrastructure SIP submissions from New Hampshire addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

To prevent significant deterioration of air quality, this sub-element requires SIPs to include provisions that prohibit any source or other type of emissions activity in one state from interfering with measures that are required in any other state's SIP under Part C of the CAA. As explained in the 2013 Guidance, a state may meet this requirement with respect to in-state sources and pollutants that are subject to PSD permitting through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. As discussed above under element C, New Hampshire has such a PSD permitting program.

For in-state sources not subject to PSD for any one or more of the pollutants subject to regulation under the CAA, prong 3 may be satisfied through an approved NNSR program with respect to any previous NAAQS. EPA approved New Hampshire's NNSR regulations on July 27, 2001 (66 FR 39104). These regulations contain provisions for how the state must treat and control sources in nonattainment areas, consistent with 40 CFR 51.165, or appendix S to 40 CFR part 51. EPA proposes that New Hampshire has met the requirements with respect to the prohibition of interference with a neighboring state's PSD program for the 2012 $PM_{2.5}$ NAAQS related to section 110(a)(2)(D)(i)(II).

Sub-Element 3: Section 110(a)(2)(D)(i)(II)—Visibility Protection (Prong 4)

With regard to applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional-haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Guidance, 2011 Guidance, and 2013 Guidance recommend that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. A fully approved regional haze SIP meeting the requirements of 40 CFR 51.308 will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility. New Hampshire's Regional Haze SIP was approved by EPA on August 22, 2012 (77 FR 50602). Accordingly, EPA proposes that New Hampshire has met the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS.

[9] New Hampshire's $PM_{2.5}$ design values for all ambient monitors from 2004–2006 through 2013–2015 are available on Table 6 of the 2015 Design Value Report at *https://19january2017snapshot.epa.gov/air-trends/air-quality-design-values_.html*.

[10] 24-hour and annual $PM_{2.5}$ monitor values for individual monitoring sites throughout New Hampshire are available at *https://www.epa.gov/outdoor-air-quality-data/monitor-values-report*.

Sub-Element 4: Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

This sub-element requires each SIP to contain provisions requiring compliance with requirements of section 126 relating to interstate pollution abatement. Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources.

On May 25, 2017, EPA approved into the New Hampshire SIP revisions to the state's PSD program that require the NHDES to provide notice of a draft PSD permit to, among other entities, any state whose lands may be affected by emissions from the source. *See* Env-A 621.03, .04(e)(3); 82 FR 24057 at 24060; *see also* Env-A 619.07(d). These public notice requirements are consistent with the Federal SIP-approved PSD program's public notice requirements for affected states under 40 CFR 51.166(q). Therefore, we propose to approve New Hampshire's compliance with the infrastructure SIP requirements of section 126(a) with respect to the 2012 $PM_{2.5}$ NAAQS. New Hampshire has no obligations under any other provision of section 126 and no source or sources within the state are the subject of an active finding under section 126 of the CAA with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 5: Section 110(a)(2)(D)(ii)—International Pollution Abatement

This sub-element requires each SIP to contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. There are no final findings under section 115 of the CAA against New Hampshire with respect to the 2012 $PM_{2.5}$ NAAQS. Therefore, EPA is proposing that New Hampshire has met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement) for the 2012 $PM_{2.5}$ NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

Section 110(a)(2)(E)(i) requires each SIP to provide necessary assurances that the state will have adequate personnel, funding, and legal authority under state law to carry out its SIP. In addition, section 110(a)(2)(E)(ii) requires each state to comply with the requirements with respect to state boards under CAA section 128. Finally, section 110(a)(2)(E)(iii) requires that, where a state relies upon local or regional governments or agencies for the implementation of its SIP provisions, the state retain responsibility for ensuring implementation of SIP obligations with respect to relevant NAAQS. Section 110(a)(2)(E)(iii), however, does not apply to this action because New Hampshire does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

New Hampshire, through its infrastructure SIP submittal, has documented that its air agency has authority and resources to carry out its SIP obligations. New Hampshire RSA 125–C:6, ''Powers and Duties of the Commissioner,'' authorizes the Commissioner of the NHDES to enforce the state's air laws, establish a permit program, accept and administer grants, and exercise incidental powers necessary to carry out the law. Additionally, RSA–125–C:12, ''Administrative Requirements,'' authorizes the Commissioner to collect fees to recover the costs of reviewing and acting upon permit applications and enforcing the terms of permits issued. The New Hampshire SIP, as originally submitted on January 27, 1972, and subsequently amended, provides additional descriptions of the organizations, staffing, funding and physical resources necessary to carry out the plan. EPA proposes that New Hampshire has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E)(ii) requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (1) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (2) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

New Hampshire RSA 21–O:11, ''Air Resources Council,'' established the New Hampshire Air Resources Council, a state board that hears all administrative appeals from department enforcement and permitting decisions. The Council consists of 11 members, 6 of whom ''shall represent the public interest.'' RSA 21–O:11, I. Those representing the public interest ''may not derive any significant portion of their income from persons subject to permits or enforcement orders, and may not serve as attorney for, act as consultant for, serve as officer or director of, or hold any other official or contractual relationship with any person subject to permits or enforcement orders.'' *Id.* The statute further provides that ''[a]ll potential conflicts of interest shall be adequately disclosed.'' *Id.* On December 16, 2015, EPA approved RSA 21–O:11 for incorporation into the New Hampshire SIP as satisfying the requirements of section 128. *See* 80 FR 78135. Additional details are provided in our July 17, 2015 proposal notification. *See* 80 FR 42446. New Hampshire's SIP continues to meet the requirements of section 110(a)(2)(E)(ii), and, we propose to approve the infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS for this element.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

New Hampshire RSA 125–C:6, ''Powers and Duties of the Commissioner,'' authorizes the Commissioner of NHDES to require the installation, maintenance, and use of emissions monitoring devices and to require periodic reporting to the Commissioner of the nature and extent of the emissions. This authority also enables the Commissioner to correlate this information to any applicable emissions standard and to make such

information available to the public. NHDES implements Chapter Env-A 800, ''Testing and Monitoring Procedures,'' and Chapter Env-A 900, ''Owner or Operator Recordkeeping and Reporting Obligations,'' as the primary means of fulfilling these obligations. New Hampshire's Chapters Env-A 800 and 900 have been approved into the SIP (*See* 77 FR 66388; November 5, 2012). Additionally, under RSA 125–C:6, VII, and Env-A 103.04, emissions data are not considered confidential information. EPA recognizes that New Hampshire routinely collects information on air emissions from its industrial sources and makes this information available to the public.

Therefore, EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for state authority analogous to that provided to the EPA Administrator in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in the event that ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

We propose to find that New Hampshire's submittals and certain state statutes provide for authority comparable to that in section 303. New Hampshire's submittals specify that RSA 125–C:9, ''Authority of the Commissioner in Cases of Emergency,'' authorizes the Commissioner of NHDES, with the consent of the Governor and Air Resources Council, to issue an order requiring actions to be taken as the Commissioner deems necessary to address an air pollution emergency. Such orders are effective immediately upon issuance. *Id.* We note also that RSA 125–C:15, I, provides that, ''[u]pon a finding by the commissioner that there is an imminent and substantial endangerment to the public health or welfare or the environment, the commissioner shall issue an order of abatement requiring immediate compliance and said order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance, and the council may, after hearing, uphold, modify, or abrogate said order.'' With regard to the authority to bring suit, RSA 125–C:15, II, further provides that violation of such an order ''shall be subject to enforcement by injunction, including mandatory injunction, issued by the superior court upon application of the attorney general.''

Section 110(a)(2)(G) also requires a state to submit for EPA approval a contingency plan (also known as an emergency episode plan) to implement the air agency's emergency episode authority for any Air Quality Control Region (AQCR) within the state that is classified as Priority I, IA, or II for certain pollutants. *See* 40 CFR 51.150. AQCRs classified as Priority III do not require contingency plans. 40 CFR 51.152(c). In general, contingency plans for Priority I, IA, and II areas must meet the applicable requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (''Prevention of Air Pollution Emergency Episodes'') for the relevant NAAQS, if the NAAQS is covered by those regulations. In the case of $PM_{2.5,}$ EPA has not promulgated regulations that provide the ambient levels to classify different priority levels for the 2012 standard (or any $PM_{2.5}$ NAAQS). For the 2006 $PM_{2.5}$ NAAQS, EPA's 2009 Guidance recommends that states develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140 $\mu g/m^3$ since 2006. EPA's review of New Hampshire's certified air quality data in AQS indicates that the highest 24-hour $PM_{2.5}$ level recorded since 2006 was 61.5 $\mu g/m^3$, which occurred in 2015 in the city of Keene in Cheshire County. Therefore, EPA proposes that a specific contingency plan from New Hampshire for $PM_{2.5}$ is not required. Furthermore, although not expected, if $PM_{2.5}$ conditions in New Hampshire were to change, NHDES has general authority to order a source to reduce or discontinue air pollution as required to protect the public health or safety or the environment, as discussed earlier. In addition, as a matter of practice, New Hampshire posts on the internet daily forecasted fine particulate levels through the EPA AIRNOW and EPA ENVIROFLASH systems. Information regarding these two systems is available on EPA's website at *www.airnow.gov*. When levels are forecast to exceed the 24-hour fine particulate standard in New Hampshire, notices are sent out to ENVIROFLASH participants, the media are alerted via a press release, and the National Weather Service (NWS) is alerted to issue an Air Quality Advisory through the normal NWS weather alert system. These actions are similar to the notification and communication requirements of 40 CFR 51.152.

Therefore, EPA proposes that New Hampshire, through the combination of statutes and regulations discussed above and participation in EPA's AirNow program, has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires that a state's SIP provide for revision from time to time as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate. New Hampshire RSA 125–C:6, ''Powers and Duties of the Commissioner,'' provides that the Commissioner of NHDES may develop a comprehensive program and provide services for the study, prevention, and abatement of air pollution. Additionally, Chapter Env-A 200, ''Procedural Rules,'' which was approved into the New Hampshire SIP on October 28, 2002 (67 FR 65710) provides for public hearings for SIP revision requests prior to their submittal to EPA. EPA proposes that New Hampshire has met the infrastructure SIP requirements of CAA section 110(a)(2)(H) with respect to the 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas. EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; Prevention of Significant Deterioration; Visibility Protection

Section 110(a)(2)(J) of the CAA requires that each SIP ''meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to PSD of air quality and visibility protection).'' The evaluation of the submission from New

Hampshire with respect to these requirements is described below.

Sub-Element 1: Consultation With Government Officials

Pursuant to CAA section 121, a state must provide a satisfactory process for consultation with local governments and Federal Land Managers (FLMs) in carrying out its NAAQS implementation requirements.

New Hampshire RSA 125–C:6, ''Powers and Duties of the Commissioner,'' authorizes the Commissioner of NHDES to advise, consult, and cooperate with the cities, towns, and other agencies of the state and federal government, interstate agencies, and other groups or agencies in matters relating to air quality. Additionally, RSA 125–C:6 enables the Commissioner to coordinate and regulate the air pollution control programs of political subdivisions to plan and implement programs for the control and abatement of air pollution. Furthermore, New Hampshire regulations at Part Env-A 621 direct NHDES to notify town officials, regional planning agencies, and FLMs, among others, of the receipt of certain permit applications and the NH DES' preliminary determination to issue, amend, or deny such permits. EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 121 with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Public Notification

Pursuant to CAA section 127, states must notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

As part of the fulfillment of RSA 125–C:6, New Hampshire issues press releases and posts warnings on its website advising people what they can do to help prevent NAAQS exceedances and avoid adverse health effects on poor air quality days. New Hampshire is also an active partner in EPA's AIRNOW and ENVIROFLASH air quality alert programs. EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 127 with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

EPA has already discussed New Hampshire's PSD program in the context of infrastructure SIPs in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II) and determined that it satisfies the requirements of EPA's PSD implementation rules. Therefore, the SIP also satisfies the PSD sub-element of section 110(a)(2)(J) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, as noted in EPA's 2013 guidance, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS.

Based on the above analysis, EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

To satisfy Element K, the state air agency must demonstrate that it has the authority to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant and submission of such data to EPA upon request.

Pursuant to the authority granted to the Commissioner of NHDES in RSA 125–C:6, New Hampshire reviews the potential impact of major sources consistent with 40 CFR part 51, Appendix W, ''Guidelines on Air Quality Models.'' The modeling data are sent to EPA along with the draft major permit. For non-major sources, Part Env-A 606, Air Pollution Dispersion Modeling Impact Analysis Requirements, specifies the air pollution dispersion modeling impact analysis requirements that apply to owners and operators of certain sources and devices in order to demonstrate compliance with the New Hampshire SIP, RSA 125–C, RSA 125–I, and any rules adopted thereunder. The state also collaborates with the Ozone Transport Commission (OTC), the Mid-Atlantic Regional Air Management Association, and EPA in order to perform large scale urban airshed modeling. Based on the above, EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the costs of reviewing, approving, implementing, and enforcing a permit.

New Hampshire implements and operates the Title V permit program, which EPA approved on September 24, 2001. *See* 66 FR 48806. Chapter Env-A 700, Permit Fee System, establishes a fee system requiring the payment of fees to cover the costs of: Reviewing and acting upon applications for the issuance of, amendment to, modification to, or renewal of a temporary permit, state permit to operate, or Title V operating permit; implementing and enforcing the terms and conditions of these permits; and developing, implementing, and administering the Title V operating permit program. In addition, Part Env-A 705 establishes the emission-based fee program for Title V and non-Title V sources. EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2012 $PM_{2.5}$ NAAQS.

M. Section 110(a)(2)(M)—Consultation/ Participation by Affected Local Entities

To satisfy Element M, states must provide for consultation with, and participation by, local political subdivisions affected by the SIP. As previously mentioned, Chapter Env-A 200, Part Env-A 204 provides a public participation process for all stakeholders that includes a minimum of a 30-day comment period and an opportunity for public hearing for revisions to the SIP. Additionally, RSA 125–C:6, ''Powers and Duties of the Commissioner,'' authorizes the Commissioner to consult and cooperate with the cities, towns, other agencies of the state and federal government, interstate agencies, and other affected agencies or groups in matters relating to air quality.

EPA proposes that New Hampshire has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2012 $PM_{2.5}$ NAAQS.

IV. Proposed Action

EPA is proposing to approve the elements of the infrastructure SIPs submitted by New Hampshire on December 22, 2015 and June 8, 2016, for the 2012 $PM_{2.5}$ NAAQS. Specifically, EPA's proposed action regarding each infrastructure SIP requirement is contained in Table 1 below.

TABLE 1—PROPOSED ACTION ON NEW HAMPSHIRE'S INFRASTRUCTURE SIP SUBMITTAL FOR THE 2012 $PM_{2.5}$ NAAQS

Element	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)1: Enforcement of SIP measures	A
(C)2: PSD program for major sources and major modifications	A
(C)3: PSD program for minor sources and minor modifications	A
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	A
(D)2: PSD	A
(D)3: Visibility Protection	A
(D)4: Interstate Pollution Abatement	A
(D)5: International Pollution Abatement	A
(E)1: Adequate resources	A
(E)2: State boards	A
(E)3: Necessary assurances with respect to local agencies	NA
(F): Stationary source monitoring system	A
(G): Emergency power	A
(H): Future SIP revisions	A
(I): Nonattainment area plan or plan revisions under part D	+
(J)1: Consultation with government officials	A
(J)2: Public notification	A
(J)3: PSD	A
(J)4: Visibility protection	+
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA	Not applicable.
+	Not germane to infrastructure SIPs.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: April 2, 2018.

Alexandra Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–07230 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 83, No. 69
Tuesday, April 10, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program (SNAP), Request for Administrative Review—Food Retailers and Wholesalers

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for the Supplemental Nutrition Assistance Program (SNAP), Request for Administrative Review.

DATES: Written comments must be received on or before June 11, 2018.

ADDRESSES: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Shanta Swezy, Chief, Administrative Review Branch, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 426, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Shanta Swezy at (703) 305–2821 or via email to *rpmdhq-web@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office and Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Shanta Swezy, (703) 305–2238.

SUPPLEMENTARY INFORMATION:

Title: Request for Administrative Review.

OMB Number: 0584–0520.

Expiration Date: September 30, 2018.

Type of Request: Revision of a currently approved collection.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Supplemental Nutrition Assistance Program (SNAP). The Food and Nutrition Act of 2008, as amended, (7 U.S.C. 2011–2036) requires that FNS determine the eligibility of retail food stores and certain food service organizations in order to participate in SNAP. If a food retailer or wholesale food concern is aggrieved by certain administrative action by FNS, that store has the right to file a written request for review of the administrative action with FNS.

Affected Public: Business-for-profit: Retail food stores and wholesale food concerns.

Estimated Number of Respondents: 1,282.

Number of Responses per Respondent: 1.2

Estimated Total Annual Response per Respondent: 1,538.4.

Estimated Time per Response: Public reporting burden for this collection of information is estimated to average 0.17 of an hour per response.

Estimated Total Annual Burden on Respondents: 262.00 hours.

Dated: March 12, 2018.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2018–07339 Filed 4–9–18; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Manti-La Sal National Forest; Utah; Monument Management Plan for the Bears Ears National Monument Shash Jáa Unit

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to ensure that all persons and entities interested in Forest Service activities are aware of the Bureau of Land Management's (BLM) January 16, 2018 Notice of Intent (NOI) to prepare an environmental impact statement (EIS) (83 FR 2181). The BLM is preparing Monument Management Plans (MMPs) for the Indian Creek Unit and the Shash Jáa Unit of the Bears Ears National Monument. The Shash Jáa Unit includes National Forest System lands, under management and decision-making authority of the Forest Service and managed under the land management plan for the Manti-La Sal National Forest (Forest Plan). The Forest Service and BLM will jointly prepare the MMP for the Shash Jáa Unit. The BLM will prepare a single EIS to satisfy the National Environmental Policy Act (NEPA) requirements for the planning process for both units. The BLM is the lead agency for the preparation of the EIS, and the Forest Service is participating as a cooperating agency. The Forest Service intends to use the BLM's EIS to make its decision for the part of the Shash Jáa Unit MMP it administers. That decision may include approving a Forest Plan amendment, if analysis leads the Forest Service to conclude that an amendment is necessary or appropriate. In the event that the Forest Service determines that it intends to amend the Forest Plan, this notice also identifies the Forest Service planning rule provisions likely to be directly related and, therefore, applicable to the Forest Plan amendment. The notice also identifies the applicable administrative review process for the Forest Plan amendment.

DATES: Consistent with the January 16, 2018, BLM Notice of Intent, comments on issues as part of the public scoping process for the EIS may be submitted in writing prior to March 19, 2018, or 15 days after the last BLM public scoping meeting, whichever is later. The date(s)

and location(s) of any scoping meetings will be announced by the BLM at least 15 days in advance through local media, newspapers, and the BLM website at: *https://www.blm.gov/utah.*

ADDRESSES: You may submit comments on issues, MMP criteria, and identified Forest Service planning rule provisions likely to be directly related to a possible Forest Plan amendment related to this planning effort by any of the following methods:

- *Website:* Bears Ears National Monument: *https://goo.gl/uLrEae.*
- *Mail:* 365 North Main, P.O. Box 7, Monticello, UT 84535.

Documents pertinent to this planning effort may be examined at the BLM Canyon Country District or Monticello Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to add your name to the mailing list, contact:

- Lance Porter, District Manager, BLM—telephone (435) 259–2100; address 365 North Main, P.O. Box 7, Monticello, UT 84535; email *blm_ut_monticello_monuments@blm.gov.*

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:

Purpose and Need for Forest Service Action

As described in the BLM's NOI, the purpose of the proposed action is to establish management plans for the Indian Creek Unit and the Shash Jáa Unit of the Bears Ears National Monument. The need for the proposed action is to comply with the Presidential Proclamation 9558, which designated the Bears Ears National Monument and required developing MMPs (82 FR 1139). The area to which the MMPs will apply is as modified by Presidential Proclamation 9681 (82 FR 58081).

As further described in the BLM's NOI, the BLM and Forest Service will jointly prepare the proposed MMP for the Shash Jáa Unit. The Forest Service is responsible for management of National Forest System lands within the Shash Jáa Unit. For the Forest Service, the proposed action may include amendment of the Manti-La Sal Forest Plan if analysis leads the Forest Service to conclude that the Forest Plan should be amended.

Lead and Cooperating Agencies for the Environmental Impact Statement

The BLM is the lead agency for the preparation of the EIS, and the Forest Service is participating as a cooperating agency for the EIS.

Responsible Official

The Forest Service responsible official is the Manti-La Sal Forest Supervisor.

Nature of the Forest Service Decision To Be Made

The Forest Service decision to be made is approval of that portion of the Shash Jáa Unit MMP applicable to National Forest System lands and approval of a Forest Plan amendment, if analysis leads the Forest Service to conclude that an amendment is necessary and appropriate.

This notice does not commit the Forest Service to amending the Forest Plan. This notice does not preclude the Forest Service from changing the Forest Plan through administrative change nor from including changes to the Forest Plan made necessary or appropriate by the MMP through the current effort of revising the Forest Plan. Furthermore, this notice does not preclude the Forest Service from including in the MMP project and site-specific activities applicable to National Forest System lands. Any Forest Service decision on project and site-specific activities must be supported by appropriate Forest Service NEPA analysis.

In the event that the Forest Service determines that it intends to amend the Forest Plan, we hereby give notice that substantive requirements of the 2012 Planning Rule (36 CFR 219) likely to be directly related and, therefore, applicable to the Forest Plan amendment are 36 CFR 219.8 (b) (1), (5), and (6), regarding social and economic sustainability; 36 CFR 219.10 (a)(1), (4), (5), (7), (8), and (10), regarding integrated resource management for multiple use; and 36 CFR 219.10 (b)(1)(ii), (iii), and (vi), regarding cultural and historic resources, areas of tribal importance, and management of designated areas.

Administrative Review

If the Forest Service determines that it intends to amend the Forest Plan with the MMP, we will use the BLM's administrative review procedures, as provided by the 2012 Planning Rule, at 36 CFR 219.59 (b). The review procedures would include a joint response from BLM and the Forest Service to those who file for administrative review.

If changes to the Forest Plan associated with the MMP would be made as part of the current process for the revision of the Forest Plan, those changes would be part of the proposed revised Forest Plan and subject to the normal administrative review process of the Forest Service planning rule for the approval of the revised Forest Plan, 36 CFR 219, subpart B. The NOI for the revision of the Forest Plan is expected in fall of 2018.

If any project or site-specific decision is to be made in the MMP, such decision would be subject to the Forest Service project-level administrative review process at 36 CFR 218.

Dated: March 14, 2018.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–07072 Filed 4–9–18; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of briefing meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of the Rhode Island Advisory Committee to the Commission will convene at 9:00 a.m. (EDT) on Friday, April 27, 2018 in Room 222 at the Rhode Island State House, 82 Smith Street, Providence, RI 02903. The purpose of the briefing is to hear from government officials, advocates, and others on Predatory Lending in Rhode Island.

DATES: Friday, April 27, 2018 (EDT).

Time: 9:30 a.m.

ADDRESSES: Rhode Island State House, Room 222, 82 Smith Street, Providence, RI 02903.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov,* or 202–376–7533.

SUPPLEMENTARY INFORMATION: If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Monday, May 28, 2018. Written

comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://facadatabase.gov/committee/meetings.aspx?cid=272* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Tentative Agenda

Friday, April 27, 2018 at 9:00 a.m.

I. Welcome and Introductions
II. Briefing
  Panel One: Government Officials
  Panel Two: Advocates
  Panel Three: Professionals and Academicians
III. Open Session—
IV. Adjournment

Dated: April 5, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–07354 Filed 4–9–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Friday, April 20, 2018 at 12pm Central time. The Committee will discuss next steps in their study of civil rights and criminal justice in the state.

DATES: The meeting will take place on Friday, April 20, 2018 at 12 p.m. Central.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311

SUPPLEMENTARY INFORMATION:

Public Call Information: Dial: 888–505–4368, Conference ID: 6273516.

Members of the public can listen to these discussions. These meetings are available to the public through the above call in numbers. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link (*https://www.facadatabase.gov/committee/meetings.aspx?cid=236*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Arkansas: Criminal Justice
Future Plans and Actions
Public Comment
Adjournment

Dated: April 5, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–07254 Filed 4–9–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Form BC–170, U.S. Census Employment Application and Form BC–171, Additional Applicant Information

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before June 11, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*). You may also submit comments, identified by Docket Number USBC–2018–0004, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michael A. DeFrank, Chief, Management Services Branch. Mr. DeFrank can be reached by telephone on 301–763–2864 or by email at *fld.decennial.oversight@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau proposes consolidating the contents of the four forms used to collect information on job applicants into two new forms: The BC–170, U.S. Census Employment Application and the BC–171, Additional Applicant Information forms.

Currently, the Census Bureau uses the BC–170A, BC–170B, and BC–170D forms to collect applicant information such as personal data and work experience. Selecting officials review the applicant information indicated on these forms to evaluate the eligibility and quality of an applicant for employment at the Census Bureau. In addition, the Census Bureau uses the Equal Employment Opportunity Commission (EEOC) common use form 3046–0046, *Demographic Information on Applicants for Federal Employment,* to collect voluntary applicant data. All of these forms are available online in a PDF fillable format for applicants to complete and submit to the Regional Office. Paper forms of the BC–170A, B and D are available as a secondary option under some circumstances (*i.e.,* special request, lack of internet access).

The Census Bureau currently uses the:

- BC–170A to collect applicant information for temporary office and field positions for current surveys such as the Current Population Survey (CPS).
- BC–170B to collect applicant information for temporary office and field positions for special censuses.
- BC–170D to collect applicant information for temporary office and field positions for Decennial censuses.
- EEOC common use form 3046–0046, *Demographic Information on Applicants for Federal Employment,* which asks about voluntary applicant information including *Race, Hispanic Origin,* and *Disability.*

Because the Census Bureau uses three different BC–170 forms based on the specific applicant information required for each operation, applicants interested in multiple positions across operations often need to submit duplicative information on different forms, which causes unnecessary burden on the applicants. Consequently, selecting officials often need to assess multiple forms that comprise duplicate information from the same applicant, which causes unnecessary burden on the selecting officials. Additionally, voluntary applicant information is currently captured across the three BC–170 forms and the EEOC common use form, *Demographic Information on Applicants for Federal Employment,* adding to the undue burden on both the applicant and human resources staff.

To address this issue, the Census Bureau intends to consolidate the contents of the four forms into two new forms, the BC–170, *U.S. Census Employment Application* and the BC–171, *Additional Applicant Information* forms. The current EEOC common use form 3046–0046, *Demographic Information on Applicants for Federal Employment* will be replaced by the BC–171. The BC–171 collects the same information as the EEOC common use form, including *Race, Hispanic Origin,* and *Disability.* In addition, the BC–171 contains the *Education* and *Recruiting Sources* questions needed to evaluate Census Bureau recruitment strategies. Upon receiving OMB approval for this submission, we would submit a ''discontinue use'' request for the EEOC common form.

The Census Bureau conducted a thorough review of the three BC–170 forms and the EEOC common form to identify, assess, and eliminate redundant and/or nonessential collection of data that contributed to unnecessary burden on the applicant. Table A below includes additional information on how the four forms were consolidated into the BC–170 and BC–171.

TABLE A

Content	Old forms				New forms	
	BC–170A	BC–170B	BC–170D	EEOC common use form	BC–170	BC–171
General Applicant Information	X	X	X		X	
Voluntary Applicant Information	X	X	X	X		X

The specific changes made to consolidate the BC–170A, B, and D are as follows:

1. Rearranged the contents so that the general applicant information questions, regardless of position and operations, appear in the BC–170 (*e.g., Name, Address*);

2. Removed the *Prior Work Experience* and *Education* fields as the Census Bureau no longer requires them to determine eligibility and/or qualifications of an applicant;

3. Removed the *Driver's License* field as the Census Bureau does not use this to determine eligibility and/or qualifications of an applicant;

4. Removed the *Period of Service* and *Branch/Rank/Campaign Expeditionary Badge or Award* sub-fields in the *Veterans' Preference* field as the Census Bureau already collects them elsewhere on the application through the DD–214 attachment;

5. Removed the *Types of Work* field as it is not needed to determine eligibility and/or qualifications of an applicant;

6. Added a *Selective Service Number* sub-field in the *Selective Service* field in the BC–170 so that the Census Bureau could use this information to adjudicate the application since the OF–306 is not required from all applicants;

7. Added additional lines to the *Additional Information* section in the BC–170 to allow applicants to provide detailed information, as needed;

8. Updated the *Introduction* section in the BC–170 with updated descriptions of the *Types of Work, Duration of Work, Applicant Instructions, Eligibility, Pay, Training, Privacy Act Statement,* and *Assessment Instructions;*

9. Updated the *Availability* field to capture general applicant availability broken down into *Evenings, Weekends,* and *Weekdays* in lieu of specific applicant availability broken down into *Any Hours, Mornings, Afternoons,* and *Evenings* segmented by days of the week;

10. Moved the *Education* question to the BC–171 to make it voluntary, as it is used to determine recruitment strategies and is not needed to

determine eligibility and/or qualifications of an applicant;

11. Moved the *Recruiting Sources* question to the BC–171 to make it voluntary, as it is used to determine recruitment strategies and is not needed to determine eligibility and/or qualifications of an applicant.

The Census Bureau intends for applicants to access, complete, and submit both the BC–170 and BC–171 to human resources staff via the Census Schedule A Recruitment, Assessment, and Payroll System (C–SHARPS) online applicant system. The Census Bureau also intends for a paper form of the BC–170 and BC–171 to be accessible to applicants under some circumstances (*i.e.,* special request, lack of internet access) and all forms will be available electronically in PDF format for applicants to complete and submit to the Regional Office. Lastly, C–SHARPS, paper forms and the online PDF format forms will be available in Spanish for both stateside and Puerto Rico.

II. Method of Collection

The main method of collection will be online using Census Schedule A Recruitment, Assessment, and Payroll System (C–SHARPS) accessible in English and Spanish for both stateside and Puerto Rico. The BC–170 and BC–171 will also be available in English and Spanish for both stateside and Puerto Rico:

- On paper as a secondary option under some circumstances (*i.e.,* special request, lack of internet access),
- Online in PDF format for applicants to complete and submit to the Regional Office.

III. Data

OMB Control Number: 0607–0139.

Form Number(s): BC–170 and BC–171.

Type of Review: Change to a previous OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000,000 *persons (Note that on non-Decennial periods of data collection after 2020, the estimated number of respondents annually is approximately 12,000 persons).*

Estimated Time per Response: 20 minutes *(Note that this is based on calculations that determined 15 minutes for completing the BC–170 and 5 minutes for completing the BC–171. The combined total is 20 minutes for applicants completing both forms).*

Estimated Total Annual Burden Hours: 333,334 annual hours on average.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Required to obtain or retain benefits.

Legal Authority: Title 13 U.S.C., Chapter 1, Subchapter II, Section 23 a and c.; Title 5 U.S.C., Part II, Chapter 13; Title 5 U.S.C. Part III, Chapter 33, Subchapter 1, Section 1 and 20.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07260 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Miscellaneous Short Supply Activities.

Form Number(s): None.

OMB Control Number: 0694–0102.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 201.

Estimated Number of Respondents: 1.

Estimated Time per Response: 201 hours.

Needs and Uses: This information collection is comprised of two rarely used short supply activities: ''Registration of U.S. Agricultural Commodities for Exemption from Short Supply Limitations On Export'', and ''Petitions for The Imposition of Monitoring or Controls On Recyclable Metallic materials; Public Hearings.'' These activities are statutory in nature and, therefore, must remain a part of BIS's information collection budget authorization.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07358 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–53–2018]

Foreign-Trade Zone 119—Minneapolis-St. Paul, Minnesota; Application for Subzone; AGCO Corporation, Jackson and Round Lake, Minnesota

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Metropolitan Area Foreign Trade Zone Commission, grantee of FTZ 119, requesting subzone status for the facilities of AGCO Corporation (AGCO), located in Jackson and Round Lake, Minnesota. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on April 5, 2018.

The proposed subzone would consist of the following sites: *Site 1* (196 acres) 202 Industrial Park, Jackson, Jackson County; *Site 2* (31.42 acres) One Sather Plaza, Round Lake, Nobles County; *Site 3* (6.34 acres) 170 Industrial Plaza, Jackson, Jackson County; and, *Site 4* (5 acres) 136 550th Avenue, Jackson, Jackson County. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 119.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the

FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 21, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 4, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz*.

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: April 5, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07322 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–01–2018]

Foreign-Trade Zone (FTZ) 41—Milwaukee, Wisconsin; Limited Authorization of Production Activity; Quad/Graphics, Inc.—Chemical Research\Technology (Offset and Gravure Publication Printing Ink); Hartford and Sussex, Wisconsin

On December 5, 2017, the Port of Milwaukee, grantee of FTZ 41, submitted a notification of proposed production activity to the FTZ Board on behalf of Quad/Graphics, Inc.—Chemical Research\Technology, within Subzone 41O, in Hartford and Sussex, Wisconsin.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 1015, January 9, 2018). On April 4, 2018, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring that all foreign-status inputs used in the production activity be admitted to the subzone in privileged foreign status (19 CFR 146.41).

Dated: April 4, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07321 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–68–2017]

Foreign-Trade Zone (FTZ) 241—Fort Lauderdale, Florida; Authorization of Production Activity; Marine Industries Association of South Florida (Yacht Repair/Refitting); Fort Lauderdale, Florida

On November 17, 2017, the City of Fort Lauderdale, grantee of FTZ 241, submitted a notification of proposed production activity to the FTZ Board on behalf of the Marine Industries Association of South Florida (MIASF), within Subzone 241A, in Fort Lauderdale, Florida.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 56212, November 28, 2017). On March 20, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: April 5, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07327 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–25–2018]

Approval of Subzone Status; SDI USA, LLC; Meriden, Connecticut

On February 8, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Bridgeport Port Authority, grantee of FTZ 76, requesting subzone status subject to the existing activation limit of FTZ 76, on behalf of SDI USA, LLC, in Meriden, Connecticut.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 6510, February 14, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 76C was approved on April 4, 2018, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 76's 476-acre activation limit.

Dated: April 4, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07318 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–76–2017]

Foreign-Trade Zone (FTZ) 82—Mobile, Alabama; Authorization of Production Activity; Aker Solutions, Inc. (Undersea Umbilicals); Mobile, Alabama

On December 5, 2017, the City of Mobile, grantee of FTZ 82, submitted a notification of proposed production activity to the FTZ Board on behalf of Aker Solutions, Inc., within Site 7, in Mobile, Alabama.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 58591–58592, December 13, 2017). On April 4, 2018, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: April 4, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07320 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–20–2018]

Foreign-Trade Zone 158—Vicksburg, Mississippi; Application for Production Authority; MTD Consumer Group Inc., (Textile Grass-Catcher Bags), Verona, Mississippi

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, requesting production authority on behalf of MTD Consumer Group Inc. (MTD) located in Verona, Mississippi. The application conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.23) was docketed on April 4, 2018.

The MTD facility (over 1,000 employees) is located within Site 17 of FTZ 158. The facility is used for the production of walk-behind lawn mowers using textile grass-catcher bags. In 2016, MTD requested FTZ production authority in a notification proceeding (15 CFR 400.22 and 400.37). After an initial review, the requested production authority was approved subject to a restriction requiring that textile grass-catcher bags be admitted in domestic/duty-paid status (Doc. B–65–2016, 82 FR 6489, January 19, 2017). This pending application seeks authority to use foreign-status textile grass-catcher bags in the production of walk-behind mowers. As requested, production under FTZ procedures could exempt MTD from customs duty payments on the textile grass-catcher bags used in export production. The company estimates that less than ten percent of MTD's walk-behind lawn mowers are exported. On its domestic sales, MTD would be able to choose the duty rate during customs entry procedures that applies to walk-behind lawn mowers (duty-free) for the textile grass-catcher bags (duty rate 3.8%). MTD would be able to avoid duty on textile grass-catcher bags which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 11, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 25, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *elizabeth.whiteman@trade.gov* or 202–482–0473.

Dated: April 4, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–07324 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Request for Applicants for the Appointment to the United States-India CEO Forum

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice announces membership opportunities for appointment, or reappointment, as U.S. representatives to the U.S.-India CEO Forum.

DATES: Applications should be received no later than May 25, 2018.

ADDRESSES: Please send requests for consideration to Noor Sclafani at the Office of South Asia, U.S. Department of Commerce, either by email at *noor.sclafani@trade.gov* or by mail to U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 2310, Washington, DC 20230.

FOR FURTHER INFORMATION, CONTACT: Noor Sclafani, International Trade Specialist, Office of South Asia, U.S. Department of Commerce, telephone: (202) 482–1421.

SUPPLEMENTARY INFORMATION: Established in 2005, the U.S.-India CEO Forum, brings together leaders of the respective business communities of the United States and India to discuss issues of mutual interest, particularly ways to strengthen the economic and commercial ties between the two countries, and to communicate their joint recommendations to the U.S. and Indian governments.

The Forum will have U.S. and Indian private and public sector co-chairs. The Secretary of Commerce will serve as the U.S. Government chair. Other senior U.S. Government officials may also participate in the Forum. The Forum will also include U.S. and Indian private sector members, who will be divided into two sections. The U.S. Section will consist of up to 20 members representing the views and interests of the private sector business community in the United States. Each government will appoint the members to its respective Section. The Secretary of Commerce will appoint the U.S. Section and the U.S. Section's private sector co-chair. The Forum will allow private sector members to develop and provide recommendations to the two governments and their senior officials that reflect private sector views, needs, concerns, and suggestions about the creation of an environment in which their respective private sectors can partner, thrive, and enhance bilateral commercial ties to expand trade and economic links between the United States and India. The Forum will work in tandem with, and provide input to, the government-to-government U.S.-India Commercial Dialogue.

U.S. industry candidates are currently being sought for membership. Each candidate must be the Chief Executive Officer or President (or have a comparable level of responsibility) of a U.S.-owned or controlled company that is incorporated in and has its main headquarters located in the United States and is currently conducting business in both countries. Candidates must be U.S. citizens or otherwise legally authorized to work in the United States and be able to travel to India and locations in the United States to attend Forum meetings as well as U.S. Section meetings. The candidate may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Applications for membership in the U.S. Section by eligible individuals will be evaluated based on the following criteria:

- A demonstrated commitment by the individual's company to the Indian market either through exports or investment.
- A demonstrated strong interest in India and its economic development.
- The ability to offer a broad perspective and business experience to the discussions.

• The ability to address cross-cutting issues that affect the entire business community.

• The ability to initiate and be responsible for activities in which the Forum will be active.

• If applicable, prior work by the applicant on the U.S. Section of the Forum.

The evaluation of applications for membership in the U.S. Section will be undertaken by a committee of staff from multiple U.S. Government agencies. The U.S. Section of the Forum should include members who represent a diversity of business sectors and geographic locations. To the extent possible, the U.S. Section should include members from small, medium, and large firms. The Secretary will consider the same criteria when appointing the U.S. private sector co-chair.

U.S. Section members will receive no compensation for their participation in Forum-related activities. Individual members will be responsible for all travel and related expenses associated with their participation, including attendance at Forum and Section meetings. The next Forum meeting will be held in 2018. At that time, the U.S. and Indian Sections will be expected to offer recommendations to the U.S. and Indian governments. Only appointed members may participate in official Forum meetings; substitutes and alternates may not participate. U.S. Section members will serve for two-year terms but may be reappointed.

To be considered for membership in the U.S. Section, please submit the following information as instructed in the **ADDRESSES** and **DATES** captions above: Name and title of the individual requesting consideration; name and address of company's headquarters; location of incorporation; size of the company; size of company's export trade, investment, and nature of operations or interest in India; and a brief statement describing the candidate's qualifications that should be considered, including information about the candidate's ability to initiate and be responsible for activities in which the Forum will be active. Candidates that have previously been members of the U.S. Section need only provide a letter expressing their interest in re-applying and indicating any changes to the application materials previously supplied. All candidates will be notified once selections have been made.

Dated: April 3, 2018.

Valerie Dees,

Director of the Office of South Asia.

[FR Doc. 2018–07236 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–821]

Certain Tool Chests and Cabinets From the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain tool chests and cabinets (tool chests) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The final dumping margin of sales at LTFV is listed in the ''Final Determination'' section of this notice.

DATES: Applicable April 10, 2018.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* in the LTFV investigation of tool chests from Vietnam on November 16, 2017.[1] We invited parties to comment on the *Preliminary Determination.* For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum dated concurrently with, and hereby adopted by, this notice.[2]

Period of Investigation

The period of investigation is October 1, 2016, through March 31, 2017.

Scope of the Investigation

The products covered by this investigation are tool chests from Vietnam. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in Commerce's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.*

Verification

Because the sole mandatory respondent in this investigation, Clearwater Metal Single Entity[3] withdrew from the scheduled verification, Commerce was unable to conduct verification under section 782(i)(1) of the Tariff Act of 1930, as amended (the Act).

Vietnam-Wide Entity and Use of Adverse Facts Available

Because Clearwater Metal Single Entity prevented us from conducting verification of its questionnaire responses, including its claim that it is a wholly foreign-owned company, we find that Clearwater Metal Single Entity is considered part of the Vietnam-wide entity. We continue to find that the use of facts available is warranted in determining the dumping margin of the Vietnam-wide entity, pursuant to section 776(a)(1) and (a)(2)(A)–(C) of the

[1] *See Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures,* 82 FR 53452 (November 16, 2017) *(Preliminary Determination).*

[2] *See* Memorandum, ''Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[3] Commerce preliminarily determined that Clearwater Metal VN JSC, Rabat Corporation, and CSPS Co., Ltd., are a single entity (hereinafter, Clearwater Metal Single Entity). *See Preliminary Determination,* 82 FR at 53453 n.10; *see also* Memorandum, ''Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Collapsing and Single Entity Treatment,'' dated November 14, 2017. Nothing has changed for this final determination, and therefore, we continue to treat these companies as a single entity.

Act. Further, use of facts available is also warranted, pursuant to section 776(a)(2)(D) of the Act, because information provided by Clearwater Metal Single Entity, that is part of the Vietnam-wide entity, could not be verified. We, also, continue to find that the Vietnam-wide entity failed to cooperate to the best of its ability and, therefore, the use of adverse facts available with an adverse inference is appropriate, pursuant to section 776(b) of the Act.

Changes From Preliminary Determination

In light of the discussion above, we have made certain changes in the final determination, which are fully described in the Issues and Decision Memorandum. As a result of these changes, we relied on the highest product matching control number-specific dumping margin we calculated for Clearwater Metal Single Entity in the *Preliminary Determination* to determine the dumping margin for the Vietnam-wide entity of 327.17 percent.[4]

Final Determination

Commerce determines that a weighted-average dumping margin of 327.17 percent exists for the Vietnam-wide entity.

Disclosure

The dumping margin assigned to the Vietnam-wide entity for the final determination in this investigation was based on adverse facts available, *i.e.,* the highest product matching control number-specific dumping margin calculated for Clearwater Metal Single Entity in the *Preliminary Determination.* As such, no disclosure of calculations is necessary for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of tool chests from Vietnam, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 16, 2017, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to 19 CFR 351.210(d), upon the publication of this notice, Commerce will instruct CBP to require a cash deposit[5] equal to the weighted-average amount by which the normal value exceeds U.S. price as shown above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Vietnam no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of 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 sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: April 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from the Socialist Republic of Vietnam (Vietnam). The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

(1) A body made of carbon, alloy, or stainless steel and/or other metals;

(2) two or more drawers for storage in each individual unit;

(3) a width (side to side) exceeding 15 inches for side cabinets and exceeding 21 inches for all other individual units but not exceeding 60 inches;

(4) a body depth (front to back) exceeding 10 inches but not exceeding 24 inches; and

(5) prepackaged for retail sale.

For purposes of this scope, the width parameter applies to each individual unit, *i.e.,* each individual top chest, intermediate top chest, tool cabinet, side cabinet, storage unit, mobile work bench, and work station.

Prepackaged for retail sale means the units may, for example, be packaged in a cardboard box, other type of container or packaging, and may bear a Universal Product Code, along with photographs, pictures, images, features, artwork, and/or product specifications. Subject tool chests and cabinets are covered whether imported in assembled or unassembled form. Subject merchandise includes tool chests and cabinets produced in Vietnam but assembled, prepackaged for retail sale, or subject to other minor processing in a third country prior to importation into the United States. Similarly, it would include tool chests and cabinets produced in Vietnam that are assembled, prepackaged for retail sale, or subject to other minor processing after importation into the United States.

Subject tool chests and cabinets may also have doors and shelves in addition to drawers, may have handles (typically mounted on the sides), and may have a work surface on the top. Subject tool chests and cabinets may be uncoated (*e.g.,* stainless steel), painted, powder coated, galvanized, or otherwise coated for corrosion protection or aesthetic appearance.

Subject tool chests and cabinets may be packaged as individual units or in sets. When packaged in sets, they typically include a cabinet with one or more chests that stack on top of the cabinet. Tool cabinets act as a base tool storage unit and typically have rollers, casters, or wheels to permit them to be moved more easily when loaded with tools. Work stations and mobile work benches are tool cabinets with a work surface on the top that may be made of rubber, plastic, metal, wood, or other materials.

[4] *See* Issues and Decision Memorandum for a full discussion of this issue.

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

Top chests are designed to be used with a tool cabinet to form a tool storage unit. The top chests may be mounted on top of the base tool cabinet or onto an intermediate chest. They are often packaged as a set with tool cabinets or intermediate chests, but may also be packaged separately. They may be packaged with mounting hardware (*e.g.,* bolts) and instructions for assembling them onto the base tool cabinet or onto an intermediate tool chest which rests on the base tool cabinet. Smaller top chests typically have handles on the sides, while the larger top chests typically lack handles. Intermediate tool chests are designed to fit on top of the floor standing tool cabinet and to be used underneath the top tool chest. Although they may be packaged or used separately from the tool cabinet, intermediate chests are designed to be used in conjunction with tool cabinets. The intermediate chests typically do not have handles. The intermediate and top chests may have the capability of being bolted together.

Side cabinets are designed to be bolted or otherwise attached to the side of the base storage cabinet to expand the storage capacity of the base tool cabinet.

Subject tool chests and cabinets also may be packaged with a tool set included. Packaging a subject tool chest and cabinet with a tool set does not remove an otherwise covered subject tool chest and cabinet from the scope. When this occurs, the tools are not part of the subject merchandise.

All tool chests and cabinets that meet the above definition are included in the scope unless otherwise specifically excluded.

Excluded from the scope of the investigation are tool boxes, chests, and cabinets with bodies made of plastic, carbon fiber, wood, or other non-metallic substances.

Also excluded from the scope of the investigation are industrial grade steel tool chests and cabinets. The excluded industrial grade steel tool chests and cabinets are those:

(1) Having a body that is over 60 inches in width; or

(2) having each of the following physical characteristics:

(a) A body made of steel that is 0.047 inches or more in thickness;

(b) a body depth (front to back) exceeding 21 inches; and

(c) a unit weight that exceeds the maximum unit weight shown below for each width range:

Weight to Width Ratio Tool Chests	
Inches	Maximum Pounds
21 > ≤ 25	90
25 > ≤ 28	115
28 > ≤ 30	120
30 > ≤ 32	130
32 > ≤ 34	140
34 > ≤ 36	150
36 > ≤ 38	160
38 > ≤ 40	170
40 > ≤ 42	180
42 > ≤ 44	190
44 > ≤ 46	200
46 > ≤ 48	210
48 > ≤ 50	220
50 > ≤ 52	230
52 > ≤ 54	240
54 > ≤ 56	250
56 > ≤ 58	260
58 > ≤ 60	270

Weight to Width Ratio Tool Cabinets	
Inches	Maximum Pounds
21 > ≤ 25	155
25 > ≤ 28	170
28 > ≤ 30	185
30 > ≤ 32	200
32 > ≤ 34	215
34 > ≤ 36	230
36 > ≤ 38	245
38 > ≤ 40	260
40 > ≤ 42	280
42 > ≤ 44	290
44 > ≤ 46	300
46 > ≤ 48	310
48 > ≤ 50	320
50 > ≤ 52	330
52 > ≤ 54	340
54 > ≤ 56	350
56 > ≤ 58	360
58 > ≤ 60	370

Also excluded from the scope of the investigation are service carts. The excluded service carts have all of the following characteristics:

(1) Casters, wheels, or other similar devices which allow the service cart to be rolled from place to place;

(2) an open top for storage, a flat top, or a flat lid on top of the unit that opens;

(3) a space or gap between the casters, wheels, or other similar devices, and the bottom of the enclosed storage space (*e.g.,* drawers) of at least 10 inches; and

(4) a total unit height, including casters, of less than 48 inches.

Also excluded from the scope of the investigation are non-mobile work benches. The excluded non-mobile work benches have all of the following characteristics:

(1) A solid top working surface;

(2) no drawers, one drawer, or two drawers in a side-by-side configuration; and

(3) the unit is supported by legs and has no solid front, side, or back panels enclosing the body of the unit.

Also excluded from the scope of this investigation are metal filing cabinets that are configured to hold hanging file folders and are classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 9403.10.0020.

Merchandise subject to this investigation is classified under HTSUS categories 9403.20.0021, 9403.20.0026, 9403.20.0030, 9403.20.0080, 9403.20.0090, and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500.[6] While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

[6] On February 8, 2018, Commerce included HTSUS subheadings 9403.20.0080 and 9403.20.0090 to the case reference files, pursuant to requests by CBP. *See* Memorandum, ''Requests from Customs and Border Protection to Update the ACE Case Reference File,'' dated February 8, 2018.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2018–07316 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Court of International Trade (CIT or Court) sustained the final results of redetermination pursuant to remand pertaining to the administrative review of the countervailing duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (China) covering the period of review (POR) January 1, 2013, through December 31, 2013. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final results of the administrative review and that we are amending the final results with respect to the total *ad valorem* countervailable subsidy rate assigned to JA Solar Technology Yangzhou Co., Ltd. and its cross-owned affiliates (collectively, JA Solar), Changzhou Trina Solar Energy Co., Ltd. (Trina Solar), and Wuxi Suntech Power Co., Ltd. (Wuxi Suntech).

DATES: Applicable April 6, 2018.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar at (202) 482–3857, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 19, 2016, Commerce published the *Final Results*.[1] Two parties, SolarWorld Americas, Inc. (SolarWorld) and Trina Solar, contested Commerce's findings in the *Final Results.* SolarWorld is a U.S. producer of solar cells and was the petitioner in the CVD investigation of solar cells from China. Trina Solar is a Chinese producer/exporter of solar cells, which participated as a non-individually examined respondent in the underlying administrative review.[2] Wuxi Suntech and JA Solar were not parties to this litigation. However, Wuxi Suntech also participated as a non-individually examined respondent in the underlying administrative review,[3] and JA Solar was the only individually examined company respondent in the underlying administrative review.[4] In the *Final Results,* Commerce calculated a countervailable subsidy rate of 19.20 percent for JA Solar, which was also assigned to Trina Solar and Wuxi Suntech.[5]

On August 18, 2017, the CIT remanded the *Final Results* to Commerce.[6] In particular, the Court instructed Commerce to further explain or reconsider its method of calculating a benchmark price to measure the adequacy of remuneration for solar glass.[7] In accordance with the ruling, Commerce issued its Remand Redetermination, in which it further explained its benchmark determination and corrected an error in the calculation of that benchmark.[8] As a result of the corrected error, Commerce revised the countervailable subsidy rates for JA Solar, Trina Solar, and Wuxi Suntech to 24.66 percent.[9] On March 27, 2018, the CIT sustained Commerce's Remand Redetermination in full,[10] thereby affirming a 24.66 percent countervailable subsidy rate for JA Solar, Trina Solar, and Wuxi Suntech.

Timken Notice

In its decision in *Timken,*[11] as clarified by *Diamond Sawblades,*[12] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's March 27, 2018 final judgment sustaining the Final Redetermination constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results.* This notice is published in fulfillment of the *Timken* publication requirements. Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision, we are amending the *Final Results* with respect to the countervailable subsidy rate assigned to JA Solar, Trina Solar, and Wuxi Suntech. Based on the Remand Redetermination, as affirmed by the CIT, the revised countervailable subsidy rates for JA Solar, Trina Solar, and Wuxi Suntech for the period January 1, 2013, through December 31, 2013, are as follows:

[1] *See Final Results of Countervailing Duty Administrative Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China,* 81 FR 46904 (July 19, 2016) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See Final Results,* 81 FR at 46905.

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *See Changzhou Trina Solar Energy Co.* v. *United States,* Slip Op. 17–106, Court No. 16–00157 (CIT 2017) (*Trina Solar*).

[7] *Id.* at 3.

[8] *See* Commerce Memorandum, ''*Changzhou Trina Solar Energy Co.* v. *United States,* Court of International Trade Consolidated Court No. 16–00157: Final Results of Redetermination Pursuant to Remand,'' November 30, 2017 (Remand Redetermination).

[9] *Id.*

[10] *See Changzhou Trina Solar Energy Co., Ltd.* v. *United States,* Slip Op. 18–31, Court No. 16–00157 (CIT 2018).

[11] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[12] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Producer/exporter	Subsidy rates (percent)
JA Solar Technology Yangzhou Co., Ltd.[13]	24.66
Changzhou Trina Solar Energy Co., Ltd.	24.66
Wuxi Suntech Power Co., Ltd.	24.66

In the eventthat the CIT's rulings are not appealed or, if appealed, are upheld by a final and conclusive court decision, Commerce will instruct Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the revised countervailing duty rates listed above.

Cash Deposit Requirements

Since the *Final Results,* Commerce has established a new cash deposit rate for Trina Solar and Wuxi Suntech.[14] Therefore, this amended final determination does not change the later-established cash deposit rates for Trina Solar and Wuxi Suntech. JA Solar does not have a superseding cash deposit rate and, therefore, Commerce will issue revised cash deposit instructions to CBP, adjusting the cash deposit rate for JA solar to 24.66 percent, effective April 6, 2018.

Notification to Interested Parties

This notice is issued and published in accordance with section 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

[13] Commerce found JA Solar Technology Yangzhou Co., Ltd. to be cross owned with the following companies: JingAo Solar Co., Ltd.; JA Solar Technology Yangzhou Co., Ltd.; Jing Hai Yang Semiconductor Material (Donghai) Co., Ltd.; Donghai JA Solar Technology Co., Ltd.; JA (Hefei) Renewable Energy Co., Ltd.; Hefei JA Solar Technology Co., Ltd.; Solar Silicon Valley Electronic Science and Technology Co., Ltd.; Hebei Ningjin Songgong Semiconductor Co., Ltd.; Shanghai JA Solar Technology Co., Ltd.; Ningjin Songgong Electronic Materials Co., Ltd.; JingLong Industry and Commerce Group Co., Ltd.; Ningjin Guiguang Electronic .Investment Co., Ltd.; Yangguang Guifeng Electronic Technology Co., Ltd.; Ninjing Jingxing Electronic Materials Co., Ltd.; Ningjin Saimei Ganglong Electronic Materials Co., Ltd.; Jingwei Electronic Material Co., Ltd.; Ningjin Changlong Electronic Materials Manufacturing Co.; Ningjin Jingfeng Electronic Materials Co., Ltd.; Ningjin County Jingyuan New Energy Investment Co., Ltd.; Xingtai Jinglong Electronic Materials Co., Ltd.; Hebei Yujing Electronic Science and Technology Co., Ltd.; Hebei Ningtong Electronic Materials Co., Ltd.; and Ningjing Sunshine New Energy Co., Ltd. *See Final Results.*

[14] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review; 2014,* 82 FR 32678, 32680 (July 17, 2017).

Dated: April 4, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–07317 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–056]

Certain Tool Chests and Cabinets From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain tool chests and cabinets (tool chests) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The final dumping margins of sales at LTFV are listed in the ''Final Determination'' section of this notice.

DATES: Applicable April 10, 2018.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5760 and (202) 482–2201, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* in the LTFV investigation of tool chests from China on November 16, 2017.[1] For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum dated concurrently with, and hereby adopted by, this notice.[2]

[1] *See Certain Tool Chests and Cabinets from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 82 FR 53456 (November 16, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See* the Memorandum, ''Certain Tool Chests and Cabinets from the People's Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

Period of Investigation

The period of investigation is October 1, 2016, through March 31, 2017.

Scope of the Investigation

The products covered by this investigation are tool chests from China. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of issues raised is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in Commerce's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.*

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we verified the U.S. sales and factors of production information submitted by the Tongrun Single Entity [3] in December 2017 and January 2018.[4] We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the Tongrun Single Entity. Because Geelong Sales (Macao Commercial Offshore) Limited (Geelong), the other mandatory respondent in this investigation, informed Commerce that it would not participate in the

[3] The Tongrun Single Entity is comprised of Jiangsu Tongrun Equipment Technology Co., Ltd., Changshu Taron Machinery Equipment Manufacturing Co., Ltd., Changshu Tongrun Mechanical & Electrical Equipment Manufacture Co., Ltd., and Shanghai Tongrun Import and Export Co., Ltd. *See Preliminary Results,* 82 FR at 53457, n.10, and accompanying Preliminary Decision Memorandum at 5–7.

[4] *See* the Reports, ''Less-Than-Fair-Value Investigation of Certain Tool Chests and Cabinets from the People's Republic of China: Verification of the Export Price Sales and Factors of Production Response of the Tongrun Single Entity,'' and ''Less-Than-Fair-Value Investigation of Certain Tool Chests and Cabinets from the People's Republic of China: Verification of the Constructed Export Price Sales Response of the Tongrun Single Entity,'' dated January 18, 2018.

verification, Commerce did not conduct a verification of Geelong's responses.

China-Wide Entity and Use of Adverse Facts Available

Geelong has prevented Commerce from conducting verification of its questionnaire responses, including its claim that it is a wholly foreign-owned company. Therefore, we find that Geelong has failed to demonstrate its eligibility for a separate rate and is considered part of the China-wide entity. We continue to find that the use of facts available is warranted in determining the rate of the China-wide entity pursuant to section 776(a)(1) and (a)(2)(A)–(C) of the Act.[5] Further, use of facts available is also warranted pursuant to sections 776(a)(2)(C)–(D) of the Act because, by refusing to allow us to conduct verifications, Geelong, which is part of the China-wide entity, significantly impeded the proceeding, as Geelong's questionnaire responses and data could not be verified.

Further, we found that the China-wide entity, which includes Geelong and other uncooperative respondents, did not cooperate to the best of its ability to comply with our requests for information and, accordingly, we determined it appropriate to apply adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a).

Changes From the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to our dumping margin calculation for the Tongrun Single Entity.[6] We also found that Geelong is part of the China-wide entity and, consistent with our *Preliminary Determination,* determined to base the China-wide entity's dumping margin on total adverse facts available. We relied on the highest control-number-specific dumping margin calculated for Geelong in the *Preliminary Determination* to determine the rate for the China-wide entity of 244.29 percent.[7]

Combination Rates

Consistent with *Preliminary Determination*[8] and Policy Bulletin 05.1,[9] Commerce calculated combination rates for the respondents that are eligible for a separate rate in this investigation.

Final Determination

Commerce determines that the following weighted-average dumping margins exist:

Exporter	Producer	Estimated weighted-average dumping margin (percent)	adjusted cash deposit rate (percent)
The Tongrun Single Entity	Changshu City Jiangrun Metal Product Co., Ltd	97.11	93.94
The Tongrun Single Entity	The Tongrun Single Entity	97.11	93.94
Changzhou Machan Steel Furniture Co., Ltd	Changzhou Machan Steel Furniture Co., Ltd	97.11	93.94
Guangdong Hisense Home Appliances Co., Ltd	Guangdong Hisense Home Appliances Co., Ltd	97.11	93.94
Hyxion Metal Industry	Hyxion Metal Industry	97.11	93.94
Jin Rong Hua Le Metal Manufactures Co., Ltd	Jin Rong Hua Le Metal Manufactures Co., Ltd	97.11	93.94
Ningbo Safewell International Holding Corp	Zhejiang Xiunan Leisure Products Co., Ltd	97.11	93.94
Pinghu Chenda Storage Office Equipment Co., Ltd	Pinghu Chenda Storage Office Equipment Co., Ltd	97.11	93.94
Pooke Technology Co., Ltd	Pooke Technology Co., Ltd	97.11	93.94
Shanghai All-Fast International Trade Co., Ltd	Kunshan Trusteel Industry Co. Ltd	97.11	93.94
Shanghai All-Fast International Trade Co., Ltd	Shanghai All-Hop Industry Co., Ltd	97.11	93.94
Shanghai All-Fast International Trade Co., Ltd	Shanghai Hom-Steel Industry Co., Ltd	97.11	93.94
Shanghai All-Hop Industry Co., Ltd	Shanghai All-Hop Industry Co., Ltd	97.11	93.94
Trantex Product (Zhong Shan) Co., Ltd	Trantex Product (Zhong Shan) Co., Ltd	97.11	93.94
China-Wide Entity		244.29	241.12

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with sections 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of tool chests from China, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 16, 2017, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to 19 CFR 351.210(d), upon the publication of this notice, Commerce will instruct CBP to require a cash deposit[10] equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of Chinese exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

[5] *See Preliminary Determination* and accompanying Preliminary Decision Memorandum at 18–21.

[6] *See* Issues and Decision Memorandum for a discussion of these changes.

[7] *Id.* at Comment 1 for a full discussion of this issue.

[8] *See Preliminary Determinations,* 82 FR at 53457–58.

[9] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[10] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

Commerce published the countervailing duty order in the concurrent countervailing duty investigation of tool chests from China.[11] Therefore, we have adjusted the cash deposit rates by deducting applicable estimated domestic subsidy pass-through rates from the final margins. For the Tongrun Single Entity, the non-selected respondents eligible for a separate rate, and the China-wide entity, the applicable estimated domestic subsidy pass-through constitutes 3.17 percent.[12] In the final determination of the concurrent countervailing duty investigation, we made no findings that any of the programs are export-contingent.[13] Therefore, we did not deduct export subsidies from the final margins. Accordingly, the cash deposit rates are 93.94 percent for the Tongrun Single Entity and the non-selected respondents eligible for a separate rate, and 241.12 percent for the China-wide entity.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from China no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of 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 sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: April 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers certain metal tool chests and tool cabinets, with drawers, (tool chests and cabinets), from the People's Republic of China (China). The scope covers all metal tool chests and cabinets, including top chests, intermediate chests, tool cabinets and side cabinets, storage units, mobile work benches, and work stations and that have the following physical characteristics:

(1) A body made of carbon, alloy, or stainless steel and/or other metals;

(2) two or more drawers for storage in each individual unit;

(3) a width (side to side) exceeding 15 inches for side cabinets and exceeding 21 inches for all other individual units but not exceeding 60 inches;

(4) a body depth (front to back) exceeding 10 inches but not exceeding 24 inches; and

(5) prepackaged for retail sale.

For purposes of this scope, the width parameter applies to each individual unit, *i.e.,* each individual top chest, intermediate top chest, tool cabinet, side cabinet, storage unit, mobile work bench, and work station.

Prepackaged for retail sale means the units may, for example, be packaged in a cardboard box, other type of container or packaging, and may bear a Universal Product Code, along with photographs, pictures, images, features, artwork, and/or product specifications. Subject tool chests and cabinets are covered whether imported in assembled or unassembled form. Subject merchandise includes tool chests and cabinets produced in China but assembled, prepackaged for retail sale, or subject to other minor processing in a third country prior to importation into the United States. Similarly, it would include tool chests and cabinets produced in China that are assembled, prepackaged for retail sale, or subject to other minor processing after importation into the United States.

Subject tool chests and cabinets may also have doors and shelves in addition to drawers, may have handles (typically mounted on the sides), and may have a work surface on the top. Subject tool chests and cabinets may be uncoated (*e.g.,* stainless steel), painted, powder coated, galvanized, or otherwise coated for corrosion protection or aesthetic appearance.

Subject tool chests and cabinets may be packaged as individual units or in sets. When packaged in sets, they typically include a cabinet with one or more chests that stack on top of the cabinet. Tool cabinets act as a base tool storage unit and typically have rollers, casters, or wheels to permit them to be moved more easily when loaded with tools. Work stations and mobile work benches are tool cabinets with a work surface on the top that may be made of rubber, plastic, metal, wood, or other materials.

Top chests are designed to be used with a tool cabinet to form a tool storage unit. The top chests may be mounted on top of the base tool cabinet or onto an intermediate chest. They are often packaged as a set with tool cabinets or intermediate chests, but may also be packaged separately. They may be packaged with mounting hardware (*e.g.,* bolts) and instructions for assembling them onto the base tool cabinet or onto an intermediate tool chest which rests on the base tool cabinet. Smaller top chests typically have handles on the sides, while the larger top chests typically lack handles. Intermediate tool chests are designed to fit on top of the floor standing tool cabinet and to be used underneath the top tool chest. Although they may be packaged or used separately from the tool cabinet, intermediate chests are designed to be used in conjunction with tool cabinets. The intermediate chests typically do not have handles. The intermediate and top chests may have the capability of being bolted together.

Side cabinets are designed to be bolted or otherwise attached to the side of the base storage cabinet to expand the storage capacity of the base tool cabinet.

Subject tool chests and cabinets also may be packaged with a tool set included. Packaging a subject tool chest and cabinet with a tool set does not remove an otherwise covered subject tool chest and cabinet from the scope. When this occurs, the tools are not part of the subject merchandise.

All tool chests and cabinets that meet the above definition are included in the scope unless otherwise specifically excluded.

Excluded from the scope of the investigation are tool boxes, chests, and

[11] *See Certain Tool Chests and Cabinets from the People's Republic of China: Countervailing Duty Order,* 83 FR 3299 (January 24, 2018). *See also Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 82 FR 56582 (November 29, 2017) (*Tool Chests China CVD Final*) and accompanying Issues and Decision Memorandum.

[12] *See Tool Chests China CVD Final* and accompanying Issues and Decision Memorandum at 9–10. *See also* the Memorandum, ''Certain Tool Chests and Cabinets from the People's Republic of China: Final Double Remedy Memorandum,'' dated concurrently with this notice at Attachment 1 for our calculations of the estimated domestic subsidy pass-through rates.

[13] *See Tool Chests China CVD Final* and accompanying Issues and Decision Memorandum. *See also, e.g., Circular Welded Carbon-Quality Steel Pipe from Pakistan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures,* 81 FR 36867 (June 8, 2016), and accompanying Preliminary Decision Memorandum at 13, unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Determination of Sales at Less Than Fair Value,* 81 FR 75028 (October 28, 2016).

cabinets with bodies made of plastic, carbon fiber, wood, or other non-metallic substances.

Also excluded from the scope of the investigation are industrial grade steel tool chests and cabinets. The excluded industrial grade steel tool chests and cabinets are those:

(1) Having a body that is over 60 inches in width; or

(2) having each of the following physical characteristics:

(a) a body made of steel that is 0.047 inches or more in thickness;

(b) a body depth (front to back) exceeding 21 inches; and

(c) a unit weight that exceeds the maximum unit weight shown below for each width range:

Weight to Width Ratio Tool Chests	
Inches	Maximum Pounds
21 > ≤ 25	90
25 > ≤ 28	115
28 > ≤ 30	120
30 > ≤ 32	130
32 > ≤ 34	140
34 > ≤ 36	150
36 > ≤ 38	160
38 > ≤ 40	170
40 > ≤ 42	180
42 > ≤ 44	190
44 > ≤ 46	200
46 > ≤ 48	210
48 > ≤ 50	220
50 > ≤ 52	230
52 > ≤ 54	240
54 > ≤ 56	250
56 > ≤ 58	260
58 > ≤ 60	270

Weight to Width Ratio Tool Cabinets	
Inches	Maximum Pounds
21 > ≤ 25	155
25 > ≤ 28	170
28 > ≤ 30	185
30 > ≤ 32	200
32 > ≤ 34	215
34 > ≤ 36	230
36 > ≤ 38	245
38 > ≤ 40	260
40 > ≤ 42	280
42 > ≤ 44	290
44 > ≤ 46	300
46 > ≤ 48	310
48 > ≤ 50	320
50 > ≤ 52	330
52 > ≤ 54	340
54 > ≤ 56	350
56 > ≤ 58	360
58 > ≤ 60	370

Also excluded from the scope of the investigation are service carts. The excluded service carts have all of the following characteristics:

(1) Casters, wheels, or other similar devices which allow the service cart to be rolled from place to place;

(2) an open top for storage, a flat top, or a flat lid on top of the unit that opens;

(3) a space or gap between the casters, wheels, or other similar devices, and the bottom of the enclosed storage space (*e.g.,* drawers) of at least 10 inches; and

(4) a total unit height, including casters, of less than 48 inches.

Also excluded from the scope of the investigation are non-mobile work benches. The excluded non-mobile work benches have all of the following characteristics:

(1) A solid top working surface;

(2) no drawers, one drawer, or two drawers in a side-by-side configuration; and

(3) the unit is supported by legs and has no solid front, side, or back panels enclosing the body of the unit.

Also excluded from the scope of this investigation are metal filing cabinets that are configured to hold hanging file folders and are classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 9403.10.0020.

Merchandise subject to this investigation is classified under HTSUS categories 9403.20.0021, 9403.20.0026, 9403.20.0030, 9403.20.0080, 9403.20.0090, and 7326.90.8688, but may also be classified under HTSUS category 7326.90.3500.[14] While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[14] On February 8, 2018, Commerce included HTSUS subheadings 9403.20.0080 and 9403.20.0090 to the case reference files, pursuant to requests by CBP. *See* the Memorandum, ''Requests from Customs and Border Protection to Update the ACE Case Reference File,'' dated February 8, 2018.

[FR Doc. 2018–07315 Filed 4–9–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2015–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain uncoated paper (uncoated paper) from Brazil is being, or is likely to be, sold in the United States at less than fair value.

DATES: Applicable April 10, 2018.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, 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) 482–4047.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2017, Commerce initiated the antidumping duty administrative review on uncoated paper from Brazil.[1] The review covers one producer/exporter of the subject merchandise, Suzano Papel e Celulose S.A. (Suzano). The period of review (POR) is August 27, 2015 through February 28, 2017. Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. As a result, the revised deadline for the preliminary results of this review is now April 3, 2018.[2] Interested parties are invited to comment on these preliminary results.

Scope of the Order

The product covered by this review is uncoated paper from Brazil. For a full description of the scope see the Preliminary Decision Memorandum dated concurrently with and hereby adopted by this notice.[3]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Administrative Review

We preliminarily determine that the following weighted-average dumping margin exists for the period August 27, 2015 through February 28, 2017.

Exporter/producer	Weighted-average margin %
Suzano Papel e Celulose S.A	17.39

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results to the parties within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[5]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[6] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rate

If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[7] If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate the appropriate entries without regard to antidumping duties in accordance with the Final Modification for Reviews.[8] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable.

For entries of subject merchandise during the period of review produced by Suzano Papel e Celulose S.A. for which they did not know their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of uncoated paper from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for companies subject to this review will be equal to the weighted-average dumping margins established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 21513 (May 9, 2017).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Uncoated Paper from Brazil; 2015–2017,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *See* 19 CFR 351.310(c).

[7] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[8] *See Final Modification for Reviews,* 77 FR 8103. *See also* 19 CFR 351.106(c)(2).

published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 27.11 percent, the all-others rate established in the less-than-fair-value investigation.[9]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: April 3, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties for the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2018–07313 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11173 (March 3, 2016).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–829]

Certain Uncoated Paper From Indonesia: Preliminary Results of Countervailing Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain uncoated paper from Indonesia. The period of review is June 29, 2015, through December 31, 2016. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 10, 2018.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Darla Brown, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–1791, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the notice of initiation of this administrative review on May 9, 2017.[1] On November 6, 2017, Commerce postponed the preliminary results of this review until April 2, 2018.[2] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. As a result, the revised deadline for the preliminary results of this review is now April 3, 2018.[3] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4]

Period of Review

According to section 351.213(e)(2)(ii) of Commerce's regulations, the first administrative review of a countervailing duty order should cover the period from the initial date of suspension of liquidation of the subject merchandise to the end of the most recently completed calendar or fiscal year. In this case, suspension of liquidation began on June 29, 2015.[5] Therefore, the period of review (POR) for which we are measuring countervailable subsidies is from June 29, 2015 through December 31, 2016.

Because it is Commerce's practice to calculate subsidy rates on an annual basis, we calculated a 2015 rate and a 2016 rate. The rate calculated for 2015 will be applicable only to entries, or withdrawals from warehouse, for consumption made on and after June 29, 2015 through the end of 2015.

Scope of the Order

The products covered by the order are certain uncoated paper from Indonesia. A full description of the scope of the order is contained in the Preliminary Decision Memorandum, which is hereby adopted by this notice.[6]

Methodology

Commerce is conducting this countervailing duty (CVD) review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our preliminary conclusions,

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 21513 (May 9, 2017) (*Initiation Notice).*

[2] *See* Memorandum, ''Certain Uncoated Paper from Indonesia: Extension of Deadline for Preliminary Results of 2015–2016 Countervailing Duty Administrative Review,'' dated November 6, 2017.

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review: Certain Uncoated Paper from Indonesia; 2015–2016,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Certain Uncoated Paper from Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 80 FR 36971 (June 29, 2016).

[6] *Id.*

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

see the Preliminary Decision Memorandum.[8] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following estimated countervailable subsidy rates for 2015 and 2016 exist:

Company	2015 Ad Valorem rate	2016 Ad Valorem rate
APRIL Fine Paper Macao Commercial Offshore Limited/PT Anugrah Kertas Utama/PT Riau Andalan Kertas/PT Intiguna Primatama/PT Riau Andalan Pulp & Paper/PT Esensindo Cipta Cemerlang/PT Sateri Viscose International/PT ITCI Hutani Manunggal	15.09%	4.13%

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount calculated for 2016. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose to interested parties the calculations and analysis performed in connection with this preliminary results within five days of publication of this notice in the **Federal Register.**[9] Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this proceeding.[10] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: April 3, 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 Preliminary Decision Memorandum

[8] A list of topics discussed in the Preliminary Decision Memorandum can be found in Appendix I to this notice.

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309(c)(l)(ii).

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Accelerated Depreciation and Amortization
viii. Tax Incentives for Investment in Specified Business Lines and or in Specified Regions by the BKPM—Extension of Loss Carry-Forwards
ix. Preferential Treatment for Bonded Zone Locations
1. Waiver of License and Fee Requirements
2. Exemption from Sales Taxes for Capital Goods and Equipment Used to Produce Exports
VI. Recommendation

[FR Doc. 2018–07312 Filed 4–9–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: National Saltwater Angler Registry and State Exemption Program.

OMB Control Number: 0648–0578.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 2,724.

Average Hours per Response:

Burden Hours: 137.

Needs and Uses: The National Saltwater Angler Registry Program (Registry Program) was established to implement recommendations included in the review of national saltwater angling data collection programs conducted by the National Research Council (NRC) in 2005/2006, and the provisions of the Magnuson-Stevens Reauthorization Act, codified at Section 401(g) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which require the Secretary of Commerce to commence improvements to recreational fisheries surveys, including establishing a national saltwater angler and for-hire vessel registry, by January 1, 2009. A final rule that includes regulatory measures to implement the Registry Program (RIN 0648–AW10) was adopted and codified in 50 CFR 600 Subpart P.

The Registry Program collects identification and contact information from those anglers and for-hire vessels who are involved in recreational fishing in the United States Exclusive Economic Zone or for anadromous fish in any waters, unless the anglers or vessels are exempted from the registration requirement. Data collected includes: For anglers: Name, address, date of birth, telephone contact information and region(s) of the country in which they fish; for for-hire vessels: Owner and operator name, address, date of birth, telephone contact information, vessel name and registration/documentation number and home port or primary operating area. This information is compiled into a national and/or series of regional registries that is being used to support surveys of recreational anglers and for-hire vessels to develop estimates of recreational angling effort.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation:

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 5, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–07290 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Marine Planning and Climate Change Committee (MPCCC) meeting to review relevant sections of the draft 2017 annual Stock Assessment and Fishery Evaluation (SAFE) report for the Pacific Pelagic Fishery Ecosystem Plan (FEP), American Samoa Archipelago FEP, Hawaii FEP, Mariana Archipelago FEP and Pacific Remote Island Areas (PRIA) FEP. The MPCCC will also receive updates on matters related to fishery management and may make recommendations on these topics.

DATES: The meetings will be held between 1 p.m. and 5 p.m. on April 10 and 11, 2018. For the agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The MPCCC meeting will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220. The meeting will also be available by teleconference (phone 1 888 482–3560 and use access code 5228220 followed by #) and by webinar (go to *https://wprfmc.webex.com/join/info.wpcouncilnoaa.gov*).

FOR FURTHER INFORMATION: Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: A public comment period will be provided during the agenda. The order in which agenda items are addressed may change and will be announced in advance at the meeting. The meeting will run as late as necessary to complete scheduled business.

Agenda for the MPCCC Meeting

Tuesday, April 10, 2018, 1 p.m. to 5 p.m.

1. Welcome
2. Roll Call and Approval of Agenda
3. Island Area Updates including Climate Change Survey Results and Future Community Outreach
4. Projections of Risk and Vulnerability to Fisheries Infrastructure, Coastal Planning and Disaster Preparedness
5. 2017 FEP SAFE Reports
   A. Marine Planning Sections of Pelagic and Archipelagic Reports

Wednesday, April 11, 2018, 1 p.m. to 5 p.m.

   B. Climate Section of Pelagic Report
   C. Climate Sections of Archipelagic Reports
   D. Potential Ecosystem Indicators for Nearshore Fisheries
6. Public Comments
7. Committee Discussion and Recommendations
8. New Business

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least five days prior to the meeting date.

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

Dated: April 5, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–07307 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Monitoring Programs for Vessels in the Pacific Coast Groundfish Fishery.

OMB Control Number: 0648–0500.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 268.

Average Hours Per Response: For providers: 15 minutes for observer training/briefing/debriefing registration, notification of observer physical examination, observer status reports, other reports on observer harassment, safety concerns, or performance problems, catch monitor status reports, and other catch monitor reports on harassment, prohibited actions, illness or injury, or performance problems; 5 minutes for observer safety checklist submission to NMFS, observer provider contracts, observer information materials, catch monitor provider contracts, and catch monitor informational materials; 10 minutes for certificate of insurance; 7 minutes for catch monitor training/briefing registration, notification of catch monitor physical examination, and catch monitor debriefing registration. For vessels: 10 minutes for fishing departure reports and cease-fishing reports.

Burden Hours: 619.

Needs and Uses: In 2011, NMFS mandated observer requirements for the West Coast groundfish trawl catch shares program. For all fishery sectors, observers must be obtained through third-party observer provider companies operating under permits issued by NMFS. The regulations at §§ 660.140 (h), 660.150 (j), 660.160 (g), specify observer coverage requirements for trawl vessels and define the responsibilities for observer providers, including reporting requirements. Regulations at § 660.140 (i) specify requirements for catch monitor coverage for first receivers. Data collected by observers are used by NMFS to estimate total landed catch and discards, monitor the attainment of annual groundfish allocations, estimate catch rates of prohibited species, and as a component in stock assessments. These data are necessary to comply with the Magnuson-Stevens Act requirements to prevent overfishing. In addition, observer data is used to assess fishing related mortality of protected and endangered species.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, weekly and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: April 5, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–07291 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Washington and Oregon Charter Vessel Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 11, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jerry Leonard, National Marine Fisheries Service, 2725 Montlake Blvd. E., Seattle, WA 98112.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new information collection.

The Northwest Fisheries Science Center will conduct a cost and earnings survey of active marine charter fishing vessel companies in Washington and Oregon. The data collected will be used by the National Marine Fisheries Service (NMFS) to address statutory and regulatory mandates to determine the quantity and distribution of net benefits derived from living marine resources as well as to predict the economic impacts from proposed management options on charter fishing businesses, shore side industries, and fishing communities. In particular, these economic data collection programs contribute to legally mandated analyses required under the Magnuson-Stevens Fishery Conservation and Management Act (MFCMS), the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act (RFA), and Executive Order 12866 (E.O. 12866).

II. Method of Collection

An initial screening interview will be completed via telephone, and active marine charter vessels will receive a subsequent mixed-mode (telephone, mail, and in-person) survey.

III. Data

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 320.

Estimated Time per Response: Initial telephone screen: 2 minutes; follow-up detailed survey: 22 minutes.

Estimated Total Annual Burden Hours: 64.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 5, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–07292 Filed 4–9–18; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Consumer Advisory Board Subcommittee Meetings

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public subcommittee meetings.

SUMMARY: This notice sets forth the announcement of two public subcommittee meetings of the Consumer Advisory Board (CAB or Board) of the Bureau of Consumer Financial Protection (CFPB or Bureau). The notice also describes the functions of the Board its subcommittees.

DATES: The Consumer Advisory Board Consumer Lending subcommittee meeting will take place on Wednesday, April 18, 2018 from approximately 1:00 p.m. to 2:30 p.m. eastern standard time via conference call. The Consumer Advisory Board Card, Payment, and Deposits Markets Subcommittee meeting will take place on Tuesday, April 19, 2018 from approximately 1:00 p.m. to 2:00 p.m. eastern standard time via conference call.

Access: The subcommittee meetings will be conducted via conference call and are open to the general public. Members of the public will receive the agenda and dial-in information when they RSVP.

FOR FURTHER INFORMATION CONTACT: Crystal Dully, Outreach and Engagement Associate, 202–435–9588, *CFPB_CABandCouncilsEvents@cfpb.gov,* Advisory Board and Councils Office, External Affairs, 1700 G Street NW, Washington, DC 20552. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 3 of the Charter of the Consumer Advisory Board states that:

> The purpose of the Board is outlined in section 1014(a) of the Dodd-Frank Act, which states that the Board shall ''advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws'' and ''provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.''

To carry out the Board's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the Bureau. The Board will generally serve as a vehicle for market intelligence and expertise for the Bureau. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services.

Typically, the subcommittees meet during the in person advisory group meetings as well as in between via conference calls. Each subcommittee has an advisory group member who serves as the chair and staff from the CFPB's Advisory Board and Councils Office to assist the chair in conducting the meeting.

II. Agenda

The CAB Consumer Lending Subcommittee will discuss two of the Bureau's Request for Information (RFI) related to the Call for Evidence initiative by Acting Director Mulvaney. The CAB Card, Payment, and Deposits Markets Subcommittee will discuss lessons learned about the needs of specific targeted vulnerable populations around Mobile Financial Services (MFS) and MFS features.

Written comments will be accepted from interested members of the public and should be sent to *CFPB_CABandCouncilsEvents@cfpb.gov,* a minimum of seven (7) days in advance of the meetings. The comments will be provided to the CAB members for consideration. Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. CFPB will strive to provide, but cannot guarantee that accommodation will be provided for late requests.

Individuals who wish to join the Consumer Advisory Board Consumer Lending Subcommittee meeting must RSVP via this link *https://goo.gl/WFiqsF* by noon, April 17, 2018. Individuals who wish to join the Consumer Advisory Board Card, Payment, and Deposits Markets Subcommittee meeting must RSVP to *https://goo.gl/WFiqsF* by noon, April 18, 2018. Members of the public must RSVP by the due date and must include ''CAB Consumer Lending'' or ''CAB Mortgages and Small Business Lending Markets in the subject line of the RSVP.

III. Availability

A summary of these meetings will be available after the meeting on the CFPB's website *www.consumerfinance.gov.*

Dated: April 5, 2018.

Kirsten Sutton,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2018–07345 Filed 4–9–18; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery; Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Advisory Committee on Arlington National Cemetery (ACANC). The meeting is open to the public. For more information about the Committee, please visit: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/ACANC-Meetings.*

DATES: The Committee will meet on Tuesday, May 8, 2017 from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The Advisory Committee will meet in the Welcome Center Conference Room, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Alternate Designated Federal Officer for the Committee, in writing at Arlington National Cemetery, Arlington VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations.

Agenda: The Committee will receive updates concerning upcoming Events and Ceremonies, the Southern Expansion project, ANC Master Planning, and a Public Survey and a supplemental report regarding extending the operational life of ANC.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Arlington National Cemetery conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Committee, in response to the stated agenda of the open meeting or in regard to the Committee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the Committee. The Designated Federal Officer will review all timely submitted written comments or statements with the Committee Chairperson, and ensure the comments are provided to all members of the Committee before the meeting. Written comments or statements received after this date may not be provided to the Committee until its next meeting. Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the Committee's Designated Federal Official, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Official will log each request, in the order received, and in consultation with the Committee Chair determine whether the subject matter of each comment is relevant to the Committee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of meeting may be available for public comments. Members of the public who have requested to make a comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the Designated Federal Official.

Brenda S. Bowen,

Army **Federal Register** *Liaison Officer.*

[FR Doc. 2018–07308 Filed 4–9–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery, Remember and Explore Subcommittee and Honor Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meetings.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal Advisory Committee on Arlington National Cemetery (ACANC) subcommittee meetings of the Remember and Explore subcommittee and the Honor subcommittee. These meetings are open to the public. For more information about the Committee and the Subcommittees, please visit: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/ACANC-Meetings*

DATES: The Remember and Explore subcommittee will meet on Monday May 7, 2018 from 9:00 a.m. to 12:00 p.m. The Honor subcommittee will meet on Monday May 7, 2018 from 1:00 p.m. to 4:00 p.m.

ADDRESSES: The Remember and Explore Subcommittee and the Honor Subcommittee will meet in the Welcome Center Conference Room, Arlington National Cemetery, and Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Alternate Designated Federal Officer for the subcommittees, in writing at Arlington National Cemetery, Arlington VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: These subcommittee meetings are being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meetings: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the committee's advice and recommendations.

The primary purpose of the Remember & Explore Subcommittee is to recommend methods to maintain the Tomb of the Unknown Soldier Monument, including the cracks in the large marble sarcophagus, the adjacent marble slabs, and the potential replacement marble stone for the sarcophagus already gifted to the Army; accomplish an independent assessment of requests to place commemorative monuments; and identify means to capture and convey ANC's history, including Section 60 gravesite mementos, and improve the quality of visitors' experiences now and for generations to come.

The primary purpose of the Honor subcommittee is to accomplish an independent assessment of methods to address the long-term future of the Army national cemeteries, including how best to extend the active burials and what ANC should focus on once all available space is used.

Agenda: The Remember and Explore subcommittee will receive updates concerning the Tomb of the Unknown Soldier, Funeral processional queuing lanes, EISS, and ANC Private Marker policy. The Honor subcommittee will receive updates concerning the Southern Expansion project, ANC Master Planning, a Public Survey and a supplemental report regarding extending the operational life of ANC.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The ANC Welcome Center Conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. The Designated Federal Officer will review all timely submitted written comments or statements with the respective subcommittee Chairperson, and ensure the comments are provided to all members of the subcommittee before the meeting. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting. Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow the public to speak or otherwise address the subcommittee during the meeting. However, interested persons may submit a written statement or a request to speak for consideration by the subcommittee. After reviewing any written statements or requests submitted, the subcommittee Chairperson and the Designated Federal Officer may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer in consultation with the subcommittee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–07309 Filed 4–9–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2018–0015; OMB Control Number 0704–0246]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Information Collection in Support of DFARS Part 245, Government Property

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2018. DoD proposes that OMB extend its approval for three additional years.

DATES: DoD will consider all comments received by June 11, 2018.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0246, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0246 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(A&S)DPAP(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 571–372–6099. The information collection requirements addressed in this notice are available electronically on the internet at: *http://www.acq.osd.mil/dpap/dfars/index.htm.* Paper copies are available from Ms. Amy Williams, OUSD(A&S)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 245, Government Property, and the following related clauses and forms: DFARS 252.245–7003, Contractor Property Management System Administration; 252.245–7004, Reporting, Reutilization, and Disposal; DD Form 1348–1A, DoD Single Line item Release/Receipt Document; DD Form 1639, Disposal Determination/

Approval; OMB Control Number 0704–0246.

Needs and Uses: This requirement provides for the collection of information related to providing Government property to contractors; contractor use and management of Government property; and reporting, redistribution, and disposal of property.

a. *DFARS 245.302(1)(i):* DFARS 245.302 concerns contracts with foreign governments or international organizations. Paragraph (1)(i) requires contractors to request and obtain contracting officer approval before using Government property on work for foreign governments and international organizations.

b. *DFARS 245.604–3(b) and (d):* DFARS 245.604–3 concerns the sale of surplus Government property. Under paragraph (b), a contractor may be directed by the plant clearance officer to issue informal invitations for bids. Under paragraph (d), a contractor may be authorized by the plant clearance officer to purchase or retain Government property at less than cost if the plant clearance officer determines this method is essential for expeditious plant clearance.

c. *DFARS 252.245–7003:* This clause, ''Contractor Property Management System Administration,'' and DFARS 245.105, Contractor's Property Management System Compliance, address the requirement for contractors to respond in writing to initial and final determinations from the administrative contracting officer that identifies deficiencies in the contractor's property management system. The burden for this reporting requirement was previously approved under OMB 0704–0480 and is being incorporated into 0704–0246 in order to consolidate all DFARS part 245 requirements under one OMB clearance.

d. *DD Form 1348–1A,* DoD Single Line Item Release/Receipt Document, is prescribed at DFARS 245.7001–3 and the form is used when authorized by the plant clearance officer.

e. *DD Form 1639,* Scrap Warranty, is prescribed in the clause at DFARS 252.245–7004, Reporting, Reutilization, and Disposal. When scrap is sold by the contractor, after Government approval, the purchaser of the scrap material(s) may be required to certify, by signature on the DD Form 1639, that (i) the purchased material will be used only as scrap and (ii), if sold by the purchaser, the purchaser will obtain an identical warranty from the individual buying the scrap from the initial purchaser. The warranty contained in the DD Form 1639 expires by its terms five years from the date of the sale.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 1,745.

Responses per Respondent: 16.

Annual Responses: 27,920.

Average Burden per Response: 1 hour.

Annual Burden Hours: 27,920.

Frequency: On occasion.

Summary of Information Collection

DFARS part 245 prescribes policies and procedures for providing Government property to contractors; contractors' use and management of Government property; and reporting, redistributing, and disposing of inventory. The information collected is used by contractors, property administrators, and contracting officers.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2018–07331 Filed 4–9–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environment Impact Statement for the Proposed Alamo Dam Water Control Plan Update; Alamo Lake, Mojave and La Paz Counties, Arizona

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the Los Angeles District of the U.S. Army Corps of Engineers (USACE–SPL), as lead agency, is gathering information necessary to prepare an environmental impact statement (EIS) in connection with the update proposed for Alamo Dam's Water Control Plan. This notice opens the public scoping phase and invites interested parties to identify potential issues, concerns, and reasonable alternatives that should be considered in an EIS.

ADDRESSES: You may mail or hand deliver written comments to Alamo Dam WCP Update, Los Angeles District, U.S. Army Corps of Engineers, ATTN: CESPL–AMO Alamo, 915 Wilshire Blvd, Suite 930, Los Angeles, California 90017. Advance arrangements will need to be made to hand deliver comments. Please include your name, return address, and ''NOI Comments, Alamo Dam Water Control Plan Update'' on the first page of your written comments. Comments may also be submitted via email to *AlamoDamSPL@usace.army.mil.* If emailing comments, please use ''NOI Comments, Alamo Dam Water Control Plan Update'' as the subject of your email. Email: *AlamoDamSPL@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by email: *AlamoDamSPL@usace.army.mil;* or mail: Alamo Dam WCP Update, Los Angeles District, U.S. Army Corps of Engineers, ATTN: CESPL–AMO, 915 Wilshire Blvd, Suite 930, Los Angeles, CA 90017.

SUPPLEMENTARY INFORMATION:

1. Project Description. The proposed update would provide greater flexibility in operations to support maintenance activities, minimization of anoxic sediment build up at the outlet works, and fish and wildlife benefits downstream of the dam in support of the sustainable rivers MOU. The action would also potentially result in a reallocation of water storage space to prevent the probable maximum flood overtopping the Dam. The action would also address Endangered Species Act (ESA) compliance regarding newly listed species and critical habitat designated downstream of the Dam since the 2003 Water Control Plan was completed.

2. Alternatives. The EIS will address an array of alternatives based on the project's authorized purpose and need. USACE–SPL must identify the ''overall'' project purpose and evaluate practicable alternatives. USACE–SPL has identified the following potential alternatives:

A. No Action—Under this alternative, USACE–SPL would continue existing operations at Alamo Dam in accordance with the 2003 Water Control Plan.

B. Maintenance Facilitation—Under this alternative, USACE–SPL would lower the target water surface elevation (WSE) to allow access to original equipment used for regular maintenance inspections. 15.4 feet of the existing unclaimed water conservation pool storage would be reallocated to the flood control pool.

C. Unified Flow Release—Under this alternative, USACE–SPL would maintain the current target WSE but alter release schedules to create a more natural flow regime below the Dam. 15.4 feet of the existing unclaimed water conservation pool storage would be reallocated to the flood control pool.

D. Unified Flow Release and increased Recreation—Under this alternative, USACE–SPL would raise the target water surface elevation to increase

the pool allowing for more recreational opportunities. The release schedule would be modified to create a more nature flow regime below the Dam. 15.4 feet of the existing unclaimed water conservation pool storage would be reallocated to the flood control pool.

E. Original Operation Plan—Under this alternative, USACE–SPL would drop the target water surface elevation to the original elevation listed in the 1973 Water Control Manual. The release schedule would be returned to the release schedule from the 1973 Water Control Manual.

3. Scoping. Scoping is the NEPA process utilized for seeking public involvement in determining the range of alternatives and significant issues to be addressed in the EIS. USACE–SPL invites full public participation to promote open communication on the issues surrounding the proposed action. The public will be involved in the scoping and evaluation process through advertisements, notices, and other means. Project information will also be available on USACE–SPL's website at *http://www.spl.usace.army.mil/.* All individuals, NGOs, affected Indian Tribes, and local, state, and Federal agencies that have an interest are urged to participate in the scoping process. Public scoping meetings will be held to present information to the public and to receive comments from the public. The meetings will be held in Lake Havasu and Phoenix. The date, time and exact location are to be determined. Notice of the public scoping meetings will be posted on the Los Angeles District Public Notice web page: *http://www.spl.usace.army.mil/Media/Public-Notices/.* Comments will also be accepted via email (*AlamoDamSPL@usace.army.mil*) or postal mail (Los Angeles District, U.S. Army Corps of Engineers, ATTN: CESPL–AMO, 915 Wilshire BLVD, Suite 930, Los Angeles, CA 90017). In addition to the two proposed public scoping meetings, the USACE–SPL scoping process for this action will include potential additional public scoping meeting(s) and workshop(s) (exact number TBD) with affected Federal, state, and local agencies.

Public Scoping Meeting: The date, time and exact location are to be determined. Notice of the public scoping meetings will be posted on the Los Angeles District Public Notice web page: *http://www.spl.usace.army.mil/Media/Public-Notices/.*

4. Potentially Significant Issues. The EIS will analyze the potential impacts on the human and natural environment resulting from the project. The scoping, public involvement, and interagency coordination processes will help identify and define the range of potential significant issues that will be considered. Important resources and issues evaluated in the EIS could include, but are not limited to, the direct, indirect, and cumulative effects on fish and wildlife, recreation, land use, hydrology and hydraulics, property values, and induced flooding. USACE–SPL will also consider issues identified and comments made throughout scoping, public involvement, and interagency coordination. USACE–SPL expects to better define the issues of concern and the methods that will be used to evaluate those issues through the scoping process.

5. Environmental Consultation and Review. USACE–SPL is requesting that the U.S. Fish and Wildlife Service, U.S. Bureau of Recreation, U.S. Bureau of Land Management, Arizona Department of Game and Fish, and the Arizona State Park Department act as cooperating agencies on this EIS. In addition to the federal interests noted above for general development of the EIS, USFWS will assist in documenting existing conditions and assessing effects of project alternatives through the Fish and Wildlife Coordination Act consultation procedures. Consultation will be completed with USFWS concerning threatened and endangered species and their critical habitat per the Endangered Species Act.

6. The USACE–SPL will consult with the Arizona State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officers (THPO), per the National Historic Preservation Act.

7. Availability. The DEIS is presently scheduled to be available for public review and comment by: May 2019. All comments received throughout the review process will become part of the administrative record for the proposed project and subject to public release.

Dated: March 20, 2018.

Kirk E. Gibbs,

Colonel, U.S. Army, Commander and District Engineer.

Notes

- Text to be double-spaced. Use block format.
- Place local billing code number at the top of the first page on all three copies.
- Margins—one inch on top, bottom and right side; and one and one-half inches on the left side.
- Pages must be numbered consecutively.
- Text should be typed on one side only.
- Use 8½ by 11 inch bond paper or photocopy paper.
- Refer to 33 CFR 230, Appendix C for additional guidance.

[FR Doc. 2018–07310 Filed 4–9–18; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for New Grants Under the Indian Education Professional Development Plan (1894–0001)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 10, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0039. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Angela Hernandez-Marshall, 202–205–1909.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also

helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for New Grants Under the Indian Education Professional Development Plan (1894–0001).

OMB Control Number: 1810–0580.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 50.

Total Estimated Number of Annual Burden Hours: 1,500.

Abstract: The Office of Indian Education (OIE) of the Department of Education (ED) requests a revision of this previously approved information collection for the Indian Education Discretionary Grant Application authorized under Title VI, Part A, of the Elementary and Secondary Education Act, as amended. The Professional Development (PD) (CFDA 84.299B) program is a competitive discretionary grant program. The grant applications submitted for this program are evaluated on the basis of how well an applicant addresses the selection criteria, and are used to determine applicant eligibility and amount of award for projects selected for funding. The Department will use the information collected through the application package to enable external reviewers to evaluate applications submitted for the PD grant competition. Eligible applicants submit the information to describe the project for which funding is requested. The information the applicant provides addresses the program selection criteria, in 34 CFR 263.6 and as required by statute under the ESEA amended section 6122. The application is evaluated through a peer review process and an application's score is used to determine its ranking and selection for funding. The information collected reflects the specific components of the selection criteria and program services that are to be provided.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–07235 Filed 4–9–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education (NACIE or Council); Meeting

AGENCY: U.S. Department of Education, National Advisory Council on Indian Education (NACIE or Council).

ACTION: Announcement of an open public meeting.

SUMMARY: This notice sets forth the schedule of an upcoming public meeting conducted by the National Advisory Council on Indian Education (NACIE). Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend. Due to unforeseen delays in ensuring the establishment of a quorum of the NACIE membership and in order to facilitate the coordination of schedules of OESE senior leadership and presenters, this notice is being published in less than 15 days prior to the date of the scheduled meeting.

DATES: The NACIE meeting will be held on April 16–17, 2018; April 16, 2018–9:00 a.m.–5:00 p.m. Eastern Daylight Saving Time, April 17, 2018–9:00 a.m.–5:00 p.m. Eastern Daylight Saving Time.

ADDRESSES: Holiday Inn Capitol, 440 C Street SW, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Tina Hunter, Designated Federal Official, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: 202–205–8527. Fax: 202–205–0310.

SUPPLEMENTARY INFORMATION: NACIE's Statutory Authority and Function: The National Advisory Council on Indian Education is authorized by section 7141 of the Elementary and Secondary Education Act. The Council is established within the Department of Education to advise the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction and includes Indian children or adults as participants or programs that may benefit Indian children or adults, including any program established under Title VII, Part A of the Elementary and Secondary Education Act. The Council submits to the Congress, not later than June 30 of each year, a report on the activities of the Council that includes recommendations the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

One of the Council's responsibilities is to develop and provide recommendations to the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction that can benefit Indian children or adults participating in any program which could benefit Indian children.

Due to limited spacing, please RSVP for the meeting via email at *oese@ed.gov* no later than Thursday, April 15, 2018. Members of the public interested in submitting written comments may do so via email at *oese@ed.gov* no later than Thursday, April 15, 2018. Comments should pertain to the work of NACIE and/or the Office of Indian Education.

Meeting Agenda: The purpose of the meeting is to convene the Council to conduct the following business: (1) Discuss the OIE Director Position; (2) Hear Department of Education program updates; (3) Hear an update on ESSA Implementation, and; (4) Conduct discussions and begin work on the development of the annual report to Congress.

Access to Records of the Meeting: The Department will post the official report of the meeting on the OESE website at: *http://www2.ed.gov/about/offices/list/oese/index.html?src=oc* 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at the Office of Indian Education, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, Monday–Friday, 8:30 a.m. to 5:00 p.m. Eastern Daylight Saving Time or by emailing *TribalConsultation@ed.gov* or by calling Terrie Nelson on (202) 401–0424 to schedule an appointment.

Reasonable Accommodations: The hearing site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in

the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify Brandon Dent on 202–453–6450 or at *brandon.dent@ed.gov* no later than April 13, 2018. Although we will attempt to meet a request received after request due date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to make arrangements.

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 Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 6141 of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act (ESSA), 20 U.S.C. 7471.

Jason Botel,

Principal Deputy Assistant Secretary, delegated the duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2018–07349 Filed 4–9–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0038]

Agency Information Collection Activities; Comment Request; Applications for Emergency Impact Aid for Displaced Students and Assistance for Homeless Children and Youths

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

DATES: Approval by the OMB has been requested by April 16, 2018. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments before April 16, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0038. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–44, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact David Esquith, 202–453–6722.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Applications for Emergency Impact Aid for Displaced Students and Assistance for Homeless Children and Youths.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 112.

Total Estimated Number of Annual Burden Hours: 4,480.

Abstract: The Bipartisan Budget Act of 2018, signed into law by President Trump on February 9, 2018, included significant new funding to support disaster relief. The U.S. Department of Education (Department) will award up to $2.7 billion to assist K–12 schools and school districts in meeting the educational needs of students affected by Hurricanes Harvey, Irma and Maria and the 2017 California wildfires. This disaster assistance will help schools and school districts return to their full capabilities as quickly and effectively as possible.

Additional Information: An emergency clearance approval for the use of the system is described below due to the following conditions:

The Bipartisan Budget Act of 2018, signed into law by President Trump on February 9, 2018, included significant new funding to support disaster relief. The U.S. Department of Education (Department) will award up to $2.7 billion to assist K–12 schools and school districts in meeting the educational needs of students affected by Hurricanes Harvey, Irma and Maria and the 2017 California wildfires. This disaster assistance will help schools and school districts return to their full capabilities as quickly and effectively as possible. Pursuant to 5 CFR 1320.13, the Department requests that OMB review this collection under its emergency procedures, based on harm to public due to an unanticipated/unforeseen natural disaster event that occurred beyond ED's control.

Dated: April 4, 2018.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–07234 Filed 4–9–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension; Revision to Currently Approved Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before June 11, 2018. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Brian Lally, GC–62, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, by fax at (202) 586–2805, or by email at *brian.lally@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Brian Lally at the address listed above.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–0800; (2) Information Collection Request Title: Legal Collections; (3) Type of Review: Renewal and Revision; (4) Purpose: To continue to maintain DOE oversight of responsibilities relating to DOE and Contractor invention reporting and related matters; (5) Annual Estimated Number of Respondents: 1700; (6) Annual Estimated Number of Total Responses: 2000; (7) Annual Estimated Number of Burden Hours: 13,281; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $771,000.00.

Statutory Authority: 42 U.S.C. 5908(a) (b) and (c); 37 CFR part 404; 10 CFR part 784.

Issued in Washington, DC, on April 4, 2018.

Brian Lally,

Assistant General Counsel for Technology Transfer, and Intellectual Property, U.S. Department of Energy.

[FR Doc. 2018–07302 Filed 4–9–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8392–000]

Harris, Marcus M.; Notice of Filing

Take notice that on April 4, 2018, Marcus M. Harris, submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45, and Order Nos. 664.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 25, 2018.

Dated: April 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–07282 Filed 4–9–18; 8:45 am]

BILLING CODE 6717–01–P

[1] *Commission Authorization to Hold Interlocking Positions,* 112 FERC 61,298 (2005) (Order No. 664); *order on reh'g, 114 FERC 61,142* (2006) (Order No. 664–A).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–64–000]

Baltimore Gas and Electric Company; Notice of Filing

Take notice that on March 26, 2018, Baltimore Gas and Electric Company submitted a response to the Commission's Order to Show Cause,[1] issued on March 13, 2018, in the above-captioned docket.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email

[1] *AEP Appalachian Trans. Co., et al.,* 162 FERC 61,225 (2018).

notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 16, 2018.

Dated: April 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–07281 Filed 4–9–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Docket Numbers: EC18–80–000.

Applicants: Bayonne Plant Holding, L.L.C.

Description: Application of Bayonne Plant Holding, L.L.C. for Approval Under Section 203 of the Federal Power Act and Request for Expedited Action.

Filed Date: 4/3/18.

Accession Number: 20180403–5206.

Comments Due: 5 p.m. ET 4/24/18.

Docket Numbers: EC18–81–000.

Applicants: Allegheny Ridge Wind Farm, LLC, Aragonne Wind LLC, Blue Canyon Windpower LLC, Buena Vista Energy, LLC, Caprock Wind LLC, Cedar Creek Wind Energy, LLC, Crescent Ridge LLC, Goshen Phase II LLC, GSG, LLC, Kumeyaay Wind LLC, Mendota Hills LLC, Rockland Wind Farm LLC, Wolverine Creek Goshen Interconnection LLC, Commodore US Holdings Corporation.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Allegheny Ridge Wind Farm, LLC, et. al.

Filed Date: 4/3/18.

Accession Number: 20180403–5208.

Comments Due: 5 p.m. ET 4/24/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2633–034; ER10–2570–034; ER10–2717–034; ER10–3140–033; ER13–55–023; ER10–3125–012; ER10–3102–012; ER10–3100–012; ER10–3107–012; ER10–3109–012; ER15–1447–004.

Applicants: Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC, Homer City Generation, L.P., AL Sandersville, LLC, Effingham County Power, LLC, MPC Generating, LLC, Walton County Power, LLC, Washington County Power, LLC, Mid-Georgia Cogen L.P.

Description: Notice of Non-Material Change in Status of the GE MBR Affiliates.

Filed Date: 4/3/18.

Accession Number: 20180403–5214.

Comments Due: 5 p.m. ET 4/24/18.

Docket Numbers: ER18–573–001.

Applicants: Montpelier Generating Station, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5088.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–574–001.

Applicants: Monument Generating Station, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5136.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–575–001.

Applicants: O.H. Hutchings CT, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5139.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–576–001.

Applicants: Sidney, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5140.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–577–001.

Applicants: Tait Electric Generating Station, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5141.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–578–001

Applicants: Yankee Street, LLC.

Description: Compliance filing: Reactive Service Rate Schedules Compliance Filing to be effective 3/27/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5142.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1292–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA—SCE and Desert Quartzite, LLC for Quartz 3 Solar Project to be effective 4/4/2018.

Filed Date: 4/3/18.

Accession Number: 20180403–5179.

Comments Due: 5 p.m. ET 4/24/18.

Docket Numbers: ER18–1293–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2018–04–04_SA 3106 Dodge County Wind-SMMPA GIA (J441) to be effective 3/21/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5101.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1294–000.

Applicants: Woomera Energy, LLC.

Description: Compliance filing: Market Based Rate Tariff to be effective 12/31/9998.

Filed Date: 4/4/18.

Accession Number: 20180404–5108.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1295–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: RMP & Heber Construct Agmt for Heber ? Midway Line to be effective 4/3/2017.

Filed Date: 4/4/18.

Accession Number: 20180404–5109.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1296–000.

Applicants: Power 52 Inc.

Description: Compliance filing: Power52 Market Based Rate Tariff to be effective 4/17/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5116.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1297–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Palmdale Energy, LLC & Notice of Cancellation SA No. 153 to be effective 6/4/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5118.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1298–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF–SA No. 230 Shady Hills LGIA to be effective 4/5/2018.

Filed Date: 4/4/18.

Accession Number: 20180404–5133.

Comments Due: 5 p.m. ET 4/25/18.

Docket Numbers: ER18–1299–000.

Applicants: Westar Energy, Inc.

Description: Expedited Petition of Westar Energy, Inc. for Waiver of Tariff Provision.

Filed Date: 4/4/18.

Accession Number: 20180404–5144.

Comments Due: 5 p.m. ET 4/25/18.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES18–26–000.

Applicants: Southern Indiana Gas and Electric Company.

Description: Application for authority to issue short term debt of Southern Indiana Gas and Electric Company, Inc.

Filed Date: 4/3/18.

Accession Number: 20180403–5198.

Comments Due: 5 p.m. ET 4/24/18.

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: April 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–07280 Filed 4–9–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9976–26–OAR]

Alternative Method for Calculating Off-Cycle Credits Under the Light-Duty Vehicle Greenhouse Gas Emissions Program: Applications From Fiat Chrysler Automobiles and Toyota Motor North America

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting comment on applications from Fiat Chrysler Automobiles (FCA), and Toyota Motor North America (Toyota) for off-cycle carbon dioxide (CO_2) credits under EPA's light-duty vehicle greenhouse gas emissions standards. ''Off-cycle'' emission reductions can be achieved by employing technologies that result in real-world benefits, but where that benefit is not adequately captured on the test procedures used by manufacturers to demonstrate compliance with emission standards. EPA's light-duty vehicle greenhouse gas program acknowledges these benefits by giving automobile manufacturers several options for generating ''off-cycle'' CO_2 credits. Under the regulations, a manufacturer may apply for CO_2 credits for off-cycle technologies that result in off-cycle benefits. In these cases, a manufacturer must provide EPA with a proposed methodology for determining the real-world off-cycle benefit. These manufacturers have submitted applications that describe methodologies for determining off-cycle credits from technologies described in their applications. Pursuant to applicable regulations, EPA is making the descriptions of each manufacturer's off-cycle credit calculation methodologies available for public comment.

DATES: Comments must be received on or before May 10, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0168, to the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Roberts French, Environmental Protection Specialist, Office of Transportation and Air Quality, Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4380. Fax: (734) 214–4869. Email address: *french.roberts@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA's light-duty vehicle greenhouse gas (GHG) program provides three pathways by which a manufacturer may accrue off-cycle carbon dioxide (CO_2) credits for those technologies that achieve CO_2 reductions in the real world but where those reductions are not adequately captured on the test used to determine compliance with the CO_2 standards, and which are not otherwise reflected in the standards' stringency. The first pathway is a predetermined list of credit values for specific off-cycle technologies that may be used beginning in model year 2014.[1] This pathway allows manufacturers to use conservative credit values established by EPA for a wide range of technologies, with minimal data submittal or testing requirements, as long as the technologies meet EPA regulatory definitions. In cases where the off-cycle technology is not on the menu but additional laboratory testing can demonstrate emission benefits, a second pathway allows manufacturers to use a broader array of emission tests (known as ''5-cycle'' testing because the methodology uses five different testing procedures) to demonstrate and justify off-cycle CO_2 credits.[2] The additional emission tests allow emission benefits to be demonstrated over some elements of real-world driving not adequately captured by the GHG compliance tests, including high speeds, hard accelerations, and cold temperatures. These first two methodologies were completely defined through notice and comment rulemaking and therefore no additional process is necessary for manufacturers to use these methods. The third and last pathway allows manufacturers to seek EPA approval to use an alternative methodology for determining the off-cycle CO_2 credits.[3] This option is only available if the benefit of the technology cannot be adequately demonstrated using the 5-cycle methodology. Manufacturers may also use this option for model years prior to 2014 to demonstrate off-cycle CO_2 reductions for technologies that are on the predetermined list, or to demonstrate reductions that exceed those available via use of the predetermined list.

Under the regulations, a manufacturer seeking to demonstrate off-cycle credits

[1] See 40 CFR 86.1869–12(b).

[2] See 40 CFR 86.1869–12(c).

[3] See 40 CFR 86.1869–12(d).

with an alternative methodology (*i.e.,* under the third pathway described above) must describe a methodology that meets the following criteria:

- Use modeling, on-road testing, on-road data collection, or other approved analytical or engineering methods;
- Be robust, verifiable, and capable of demonstrating the real-world emissions benefit with strong statistical significance;
- Result in a demonstration of baseline and controlled emissions over a wide range of driving conditions and number of vehicles such that issues of data uncertainty are minimized;
- Result in data on a model type basis unless the manufacturer demonstrates that another basis is appropriate and adequate.

Further, the regulations specify the following requirements regarding an application for off-cycle CO_2 credits:

- A manufacturer requesting off-cycle credits must develop a methodology for demonstrating and determining the benefit of the off-cycle technology, and carry out any necessary testing and analysis required to support that methodology.
- A manufacturer requesting off-cycle credits must conduct testing and/or prepare engineering analyses that demonstrate the in-use durability of the technology for the full useful life of the vehicle.
- The application must contain a detailed description of the off-cycle technology and how it functions to reduce CO_2 emissions under conditions not represented on the compliance tests.
- The application must contain a list of the vehicle model(s) which will be equipped with the technology.
- The application must contain a detailed description of the test vehicles selected and an engineering analysis that supports the selection of those vehicles for testing.
- The application must contain all testing and/or simulation data required under the regulations, plus any other data the manufacturer has considered in the analysis.

Finally, the alternative methodology must be approved by EPA prior to the manufacturer using it to generate credits. As part of the review process defined by regulation, the alternative methodology submitted to EPA for consideration must be made available for public comment.[4] EPA will consider public comments as part of its final decision to approve or deny the request for off-cycle credits.

II. Off-Cycle Credit Applications

A. Fiat Chrysler Automobiles

1. High-Efficiency Alternator

FCA is requesting GHG credits for alternators with improved efficiency relative to a baseline alternator. This request is for the 2009 and later model years. Automotive alternators convert mechanical energy from a combustion engine into electrical energy that can be used to power a vehicle's electrical systems. Alternators inherently place a load on the engine, which results in increased fuel consumption and CO_2 emissions. High efficiency alternators use new technologies to reduce the overall load on the engine yet continue to meet the electrical demands of the vehicle systems, resulting in lower fuel consumption and lower CO_2 emissions. Some comments on EPA's proposed rule for GHG standards for the 2016–2025 model years suggested that EPA provide a credit for high-efficiency alternators on the pre-defined list in the regulations. While EPA agreed that high-efficiency alternators can reduce electrical load and reduce fuel consumption, and that these impacts are not seen on the emission test procedures because accessories that use electricity are turned off, EPA noted the difficulty in defining a one-size-fits-all credit due to lack of data.[5] FCA proposes a methodology that would scale credits based on the efficiency of the alternator; alternators with efficiency (as measured using an accepted industry standard procedure) above a specified baseline value could get credits of 0.14 grams/mile per percent improvement in alternator efficiency. This methodology is similar to that proposed by Ford and published for comment in June of 2017, as well as that proposed by GM in this **Federal Register** notice.[6] Details of the testing and analysis can be found in the manufacturer's application.

2. Active Engine Warm-Up and Active Transmission Warm-Up

Using the alternative methodology approach discussed above, FCA is applying for credits for model years prior to 2014, and thus prior to when the list of default credits became available. FCA has applied for off-cycle credits using the alternative demonstration methodology pathway for active transmission warmup and active engine warmup. EPA has already approved credits for these technologies for model years prior to 2014.[7] FCA's request is consistent with previously approved methodologies and credits. The application covers active engine warmup used in 2011–2013 model year vehicles, and active transmission warmup used in 2013 model year vehicles. These technologies are described in the predetermined list of credits available in the 2014 and later model years. The methodologies described by FCA are consistent with those used by EPA to establish the predetermined list of credits in the regulations, and would result in the same credit values as described in the regulations, as shown in the table below:

Technology	Off-cycle credit—cars (grams/mile)	Off-cycle credit—trucks (grams/mile)
Active transmission warm-up	1.5	3.2
Active engine warm-up	1.5	3.2

3. Variable Crankcase Suction Valve Technology in Denso AC Compressors

Using the alternative methodology approach discussed above, FCA is applying for credits for an air conditioning compressor manufactured by Denso that results in air conditioning efficiency credits beyond those provided in the regulations. This request is for the 2019 and subsequent model years. This compressor, known as the Denso SAS compressor, improves the internal valve system within the compressor to reduce the internal refrigerant flow necessary throughout the range of displacements that the compressor may use during its operating cycle. The addition of a variable crankcase suction valve allows a larger mass flow under maximum capacity and

[4] See 40 CFR 86.1869–12(d)(2).

[5] See 77 FR 62730, October 15, 2012.

[6] See 82 FR 27819, June 19, 2017.

[7] ''EPA Decision Document: Off-cycle Credits for Fiat Chrysler Automobiles, Ford Motor Company, and General Motors Corporation.'' Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency. EPA–420–R–15–014, September 2015.

compressor start-up conditions (when high flow is ideal), and then it can reduce to smaller openings with reduced mass flow in mid- or low-capacity conditions. The refrigerant exiting the crankcase is thus optimized across the range of operating conditions, reducing the overall energy consumption of the air conditioning system. EPA first approved credits for General Motors (GM) for the use of the Denso SAS compressor in 2015,[8] and has subsequently approved such credits for BMW, Ford, and Hyundai.[9]

The credits calculated for the Denso SAS compressor would be in addition to the credits of 1.7 grams/mile for variable-displacement A/C compressors already allowed under EPA regulations.[10] However, it is important to note that EPA regulations place a limit on the cumulative credits that can be claimed for improving the efficiency of A/C systems. The rationale for this limit is that the additional fuel consumption of A/C systems can never be reduced to zero, and the limits established by regulation reflect the maximum possible reduction in fuel consumption projected by EPA. These limits, or caps, on credits for A/C efficiency, must also be applied to A/C efficiency credits granted under the off-cycle credit approval process. In other words, cumulative A/C efficiency credits for an A/C system—from the A/C efficiency regulations and those granted via the off-cycle regulations—must comply with the stated limits.

FCA is requesting an off-cycle GHG credit of 1.1 grams CO_2 per mile for the Denso SAS compressor. FCA cited the bench test modeling analysis referenced in the original GM application, which demonstrated a benefit of 1.1 grams/mile. Like other manufacturers, FCA also ran vehicle tests using the AC17 test. Eight tests were conducted on a 2014 Dodge Charger, resulting in a calculated benefit of 3.16 grams/mile, thus substantiating the bench test results. Based on these results, FCA is requesting a credit of 1.1 grams/mile for all FCA vehicles equipped with the Denso SAS compressor with variable crankcase suction valve technology, starting with 2019 model year vehicles. Details of the testing and analysis can be found in the manufacturer's application.

B. Toyota Motor North America

Toyota Motor North America (Toyota) is requesting GHG credits for alternators with improved efficiency relative to a baseline alternator. This request is for the 2017 and later model years. Automotive alternators convert mechanical energy from a combustion engine into electrical energy that can be used to power a vehicle's electrical systems. Alternators inherently place a load on the engine, which results in increased fuel consumption and CO_2 emissions. High efficiency alternators use new technologies to reduce the overall load on the engine yet continue to meet the electrical demands of the vehicle systems, resulting in lower fuel consumption and lower CO_2 emissions. Some comments on EPA's proposed rule for GHG standards for the 2016–2025 model years suggested that EPA provide a credit for high-efficiency alternators on the pre-defined list in the regulations. While EPA agreed that high-efficiency alternators can reduce electrical load and reduce fuel consumption, and that these impacts are not seen on the emission test procedures because accessories that use electricity are turned off, EPA noted the difficulty in defining a one-size-fits-all credit due to lack of data.[11] Toyota proposes a methodology that would scale credits based on the efficiency of the alternator; alternators with efficiency (as measured using an accepted industry standard procedure) above a specified baseline value could get credits of 0.1 to 2.0 grams/mile depending on the overall improvement in alternator efficiency. This methodology is similar to that proposed by Ford and published for comment in June of 2017.[12] Details of the testing and analysis can be found in the manufacturer's application.

III. EPA Decision Process

EPA has reviewed the applications for completeness and is now making the applications available for public review and comment as required by the regulations. The off-cycle credit applications submitted by the manufacturers (with confidential business information redacted) have been placed in the public docket (see **ADDRESSES** section above) and on EPA's website at *https://www.epa.gov/vehicle-and-engine-certification/compliance-information-light-duty-greenhouse-gas-ghg-standards*.

EPA is providing a 30-day comment period on the applications for off-cycle credits described in this notice, as specified by the regulations. The manufacturers may submit a written rebuttal of comments for EPA's consideration, or may revise an application in response to comments. After reviewing any public comments and any rebuttal of comments submitted by manufacturers, EPA will make a final decision regarding the credit requests. EPA will make its decision available to the public by placing a decision document (or multiple decision documents) in the docket and on EPA's website at the same manufacturer-specific pages shown above. While the broad methodologies used by these manufacturers could potentially be used for other vehicles and by other manufacturers, the vehicle specific data needed to demonstrate the off-cycle emissions reductions would likely be different. In such cases, a new application would be required, including an opportunity for public comment.

Dated: March 23, 2018.

Byron Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2018–07356 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

[8] ''EPA Decision Document: Off-cycle Credits for Fiat Chrysler Automobiles, Ford Motor Company, and General Motors Corporation.'' Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency. EPA–420–R–15–014, September 2015.

[9] EPA Decision Document: Off-cycle Credits for BMW Group, Ford Motor Company, and Hyundai Motor Company.'' Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency. EPA–420–R–17–010, December 2017.

[10] See 40 CFR 86.1868–12.

[11] See 77 FR 62730, October 15, 2012.

[12] See 82 FR 27819, June 19, 2017.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–RCRA–2018–0083; FRL–9976–47–Region 7]

Notice of Proposed Settlement Agreement and Order on Consent for Removal Action by Bona Fide Prospective Purchaser

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is hereby giving notice of a proposed bona fide prospective purchaser settlement agreement, embodied in an Order on Consent, with Sensient Colors LLC. This agreement pertains to the former Homer A. Doerr & Sons Plating Company property located in St. Louis, Missouri.

DATES: Comments must be received on or before May 10, 2018.

ADDRESSES: The proposed settlement agreement is available for public inspection at EPA Region 7's office at 11201 Renner Boulevard, Lenexa, Kansas 66219. A copy of the proposed

agreement may also be obtained from Mary Goetz, EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, telephone number (913) 551–7754. Comments should reference the Homer A. Doerr & Sons Plating Company Superfund Site, 2408 North Leffingwell Avenue, St. Louis, Missouri 63106. Comments should be addressed to Ms. Goetz at the above address or electronically to *goetz.mary@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Alex Chen, Senior Counsel, Office of Regional Counsel, Environmental Protection Agency Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, at (913) 551–7962, or by email at *chen.alex@epa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 7, of a proposed bona fide prospective purchaser settlement agreement, embodied in an Order on Consent, with Sensient Colors LLC. This agreement pertains to the former Homer A. Doerr & Sons Plating Company property located at 2408 North Leffingwell Avenue, St. Louis, Missouri. Sensient Colors LLC agrees to perform a removal action at this property, purchase the property and return the site to green space. This project will result in an abandoned contaminated building and site being restored to beneficial use.

The settlement includes a covenant by EPA not to sue or take administrative action against Sensient Colors, pursuant to Sections 106 and 107(a) of CERCLA and Section 3008 of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments, for Existing Contamination, as that term is defined in the settlement agreement. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Dated: March 29, 2018.

Robert W. Jackson,

Acting Director, Superfund Division, Region 7.

Dated: March 29, 2018.

John J. Smith,

Acting Director, Air & Waste Management Division, Region 7.

[FR Doc. 2018–07360 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9976–53-Region 5]

Proposed CERCLA Cost Recovery Settlement for Central Transport, Inc. Superfund Site, Romulus, Wayne County, Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), notice is given by the Environmental Protection Agency (EPA) Region 5 of a proposed administrative settlement under CERCLA regarding the Central Transport, Inc. Superfund Site (Site) in Romulus, Wayne County, Michigan. Subject to review and comment by the public pursuant to this notice, this settlement resolves a claim by EPA, for recovery of response costs from three related parties who have executed a binding certification of their consent to the settlement, as listed in the **SUPPLEMENTARY INFORMATION** Section. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be submitted on or before May 10, 2018.

ADDRESSES: The proposed settlement is available for public inspection at EPA, Region 5, 7th Floor File Room, 77 West Jackson Boulevard, Chicago, Illinois, 60604. You can also obtain a copy of the proposed settlement from Associate Regional Counsel, Cynthia N. Kawakami at (312)886–0564; *kawakami.cynthia@epa.gov;* or EPA, Office of Regional Counsel, Region 5, 77 West Jackson Boulevard (C–14J), Chicago, Illinois, 60604–3590. All comments on the proposed settlement must be in writing and sent to Ms. Kawakami at her electronic mail address or standard mail address as provided above. All comments should reference the Central Transport, Inc. Site, Romulus, Wayne County, Michigan.

FOR FURTHER INFORMATION CONTACT: Associate Regional Counsel, Cynthia N. Kawakami, EPA, Region 5, 77 West Jackson Boulevard (C–14J), Chicago, Illinois, 60604–3590, (312)886–0564, or via email at *kawakami.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: Notice is given of a proposed administrative settlement under CERCLA regarding the Central Transport, Inc. Superfund Site (Site) in Romulus, Wayne County, Michigan. Subject to review and comment by the public pursuant to this Notice, this settlement resolves a claim under Sections 106, 107(a) and 122 of CERCLA, by EPA, for recovery of response costs from three related parties who have executed a binding certification of their consent to the settlement, as follows. The settlement requires the settling parties to pay a total of $27,000 to the EPA Hazardous Substance Superfund and includes EPA's covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

Dennis Schreibeis, General Counsel, Crown Enterprises, Inc. has executed a binding certification of the settling parties' consent to participate in the settlement.

Dated: March 27, 2018.

Robert A. Kaplan,

Acting Director, Superfund Division, Region 5.

[FR Doc. 2018–07362 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2017–0444; FRL–9976–57–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Hazardous Substance Handling and Storage Procedures and Associated Costs Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Hazardous Substance Handling and Storage Procedures and Associated Costs Survey'' (EPA ICR No. 2566.01, OMB Control No. 2050–NEW) to the Office of Management and Budget (OMB) review and approval in accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** September 27, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Comments must be submitted on or before May 10, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2017–0444, to (1) EPA online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Joe Beaman, OLEM/OEM/RID, (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0420; email address: *beaman.joe@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The Clean Water Act (CWA) directs the President to issue regulations ''establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from . . . onshore facilities and offshore facilities, and to contain such discharges'' (33 U.S.C. 1321(j)(1)(C)). In 1978, EPA designated a list of hazardous substances under the authority of CWA section 311(b)(2)(A). This list is found at 40 CFR part 116. EPA concurrently proposed requirements to prevent the discharge of designated hazardous substances from facilities subject to permitting requirements under the National Pollutant Discharge Elimination System (NPDES) of the CWA (43 FR 39276); the proposed regulations were never finalized. On July 21, 2015, several parties filed a lawsuit against EPA for unreasonable delay/failure to perform a nondiscretionary duty to establish regulations for hazardous substances under CWA section 311(j)(1)(C). According to a settlement agreement reached in that case and filed with the United States District Court, Southern District of New York, on February 16, 2016, EPA is to sign a proposed regulatory action no later than June 16, 2018.

EPA is developing a regulatory proposal regarding the prevention of CWA hazardous substance discharges. EPA does not directly receive reports on specific types and amounts of hazardous substances stored and used at facilities across the country. Much of that information is collected under the Emergency Planning and Community Right-to-Know Act (42 U.S. Code Chapter 116; EPCRA) which requires Tier II facilities to report the maximum and average daily amounts of hazardous chemicals onsite during the preceding year to their respective state, Tribal, or territorial authority. Therefore, the Agency has developed a short voluntary survey to be sent to states, tribes and territories of the United States requesting information on the number and type of EPCRA Tier II facilities reporting CWA hazardous substances onsite, as well as information about historical discharges of CWA hazardous substances, ecological and human health impacts of those discharges, and existing state and tribal regulatory programs that serve to prevent discharges of hazardous substances. This information will assist EPA in estimating the universe of facilities nationwide potentially subject to discharge prevention regulations for hazardous substances designated at 40 CFR part 116. EPA anticipates this information will inform the rulemaking process, assisting in the identification of potentially affected entities, evaluation of potential regulatory approaches, and estimating economic impacts.

Form numbers: None.

Respondents/affected entities: Respondents to this voluntary ICR are state, territorial, and tribal government agencies with Emergency Response Commission duties (*e.g.,* State Emergency Response Commission [SERCs], Tribal Emergency Response Commissions [TERCs]), as well as sister agencies within the respective jurisdictions that may have additional information. The state SERC staff identified by EPA Regional liaisons will be the agency's primary point of contact (POC). EPA will assist state POCs in identifying other state and tribal agencies that may have data that would assist in responding to this survey.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 490.

Frequency of response: Once.

Total estimated annual burden: 42,630 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated annual cost: $899,150.00, includes $0 annualized capital or operation & maintenance costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2018–07328 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0135; FRL–9976–25–OAR]

Proposed Information Collection Request Renewal; Comment Request; Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane'' (EPA ICR No.1907.07, OMB Control No. 2060–0437) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before June 11, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2011–0135, online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Thomas Boylan, Fuels Compliance Policy Center, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, 6405A, Washington, DC 20460; telephone number: 202–564–1075; fax number: 202–565–2085; email address: *boylan.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The requirements covered under this ICR are included in the Tier 3 Final Rule (79 FR 23414, April 28, 2014). The scope of the recordkeeping and reporting requirements for each party in the gasoline, gasoline additive, oxygenate, certified ethanol denaturant, and blender-grade pentane distribution systems, and therefore the cost to that party, reflects the party's opportunity to create, control or alter the product's sulfur content. As a result, petroleum refiners/importers, gasoline additive producers/importers, oxygenate producers/importers, certified ethanol denaturant producers/importers, and blender-grade pentane producers and importers have more significant requirements, which are necessary both for their own tracking and that of downstream parties, and for EPA enforcement. The Tier 3 program contains recordkeeping and reporting requirements that apply to gasoline additive manufacturers, oxygenate producers/importers, blender-grade pentane producers/importers, and producers/importers of certified ethanol denaturants that are used to produce denatured fuel ethanol. In large part these requirements are consistent with common business practices.

Form Numbers

OMB control No.	EPA form ID	EPA form No.
2060–0437	GSF0302	5900–312
2060–0437	GSF0402	5900–321
2060–0437	RFG1800	5900–345
2060–0437	RFG1900	5900–346
2060–0437	RFG2600	5900–347

Respondents/affected entities: Gasoline Refiners/Importers, Oxygenate Producers, Oxygenate Blenders, Gasoline Additive Manufacturers, Certified Ethanol Denaturant Producers, Butane and Pentane Manufacturers.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 3,953 (total).

Frequency of response: Annually, monthly, and on occasion.

Total estimated burden: 55,656 hours (per year). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $4,354,200 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase from approximately 60,000 responses to approximately 520,000 due to a more comprehensive understanding of the scale of the oxygenate production

and importation industry. Despite this growth in responses, total burden hours decreased from 65,000 to 56,000 and costs increased only slightly from $4.30 million to $4.35 million due to Agency experience in implementing the Tier 3 gasoline sulfur program and updated industry wage data, respectively.

Dated: March 23, 2018.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2018–07361 Filed 4–9–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, April 12, 2018 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC (12th Floor).

STATUS: This meeting, open to the public, has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Signed:

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2018–07494 Filed 4–6–18; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 4, 2018.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Diamond HTH Stock Company GP, LLC, and Diamond HTH Stock Company, LP, both in Dallas, Texas;* to become bank holding companies and retain ownership in Diamond A Financial, L.P., and thereby retain indirect ownership of Hilltop Holdings Inc., PlainsCapital Corporation, and PlainsCapital Bank, all in Dallas, Texas.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Rock Rivers Bancorp, Rock Rapids, Iowa;* to become a bank holding company upon conversion of its subsidiary Frontier Bank, Sioux Falls, South Dakota, to a South Dakota state-chartered bank.

Board of Governors of the Federal Reserve System, April 5, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–07359 Filed 4–9–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10531 and CMS–R–43]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 11, 2018.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement

and associated materials (see **ADDRESSES**).

CMS–10531 Transcatheter Mitral Valve Repair (TMVR) National Coverage Decision (NCD)

CMS–R–43 Conditions of Coverage for Portable X-ray Suppliers and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Transcatheter Mitral Valve Repair (TMVR) National Coverage Decision (NCD); *Use:* The data collection is required by the Centers for Medicare and Medicaid Services (CMS) National Coverage Determination (NCD) entitled, ''Transcatheter Mitral Valve Repair (TMVR)''. The TMVR device is only covered when specific conditions are met including that the heart team and hospital are submitting data in a prospective, national, audited registry. The data includes patient, practitioner and facility level variables that predict outcomes such as all-cause mortality and quality of life. In order to remove the data collection requirement under this coverage with evidence development (CED) NCD or make any other changes to the existing policy, we must formally reopen and reconsider the policy. We are continuing to review and analyze the data collected since this NCD was effective in 2014.

We find that the Society of Thoracic Surgery/American College of Cardiology Transcatheter Valve Therapy (STS/ACC TVT) Registry, one registry overseen by the National Cardiovascular Data Registry, meets the requirements specified in the NCD on TMVR. The TVT Registry will support a national surveillance system to monitor the safety and efficacy of the TMVR technologies for the treatment of mitral regurgitation (MR).

The data collected and analyzed in the TVT Registry will be used by CMS to determine if the TMVR is reasonable and necessary (*e.g.,* improves health outcomes) for Medicare beneficiaries under section 1862(a)(1)(A) of the Act. The data will also include the variables on the eight item Kansas City Cardiomyopathy Questionnaire (KCCQ–10) to assess heath status, functioning and quality of life. In the KCCQ, an overall summary score can be derived from the physical function, symptoms (frequency and severity), social function and quality of life domains. For each domain, the validity, reproducibility, responsiveness and interpretability have been independently established. Scores are transformed to a range of 0–100, in which higher scores reflect better health status.

The conduct of the STS/ACC TVT Registry and the KCCQ–10 is pursuant to Section 1142 of the Social Security Act (the ACT) that describes the authority of the Agency for Healthcare Research and Quality (AHRQ). Under section 1142, research may be conducted and supported on the outcomes, effectiveness, and appropriateness of health care services and procedures to identify the manner in which disease, disorders, and other health conditions can be prevented, diagnosed, treated, and managed clinically. Section 1862(a)(1)(E) of the Act allows Medicare to cover under coverage with evidence development (CED) certain items or services for which the evidence is not adequate to support coverage under section 1862(a)(1)(A) and where additional data gathered in the context of a clinical setting would further clarify the impact of these items and services on the health of beneficiaries. *Form Number:* CMS–10531 (OMB control number: 0938–1274); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 3,897; *Total Annual Responses:* 15,588; *Total Annual Hours:* 5,456. (For policy questions regarding this collection contact Sarah Fulton at 410–786–2749.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Coverage for Portable X-ray Suppliers and Supporting Regulations; *Use:* The requirements contained in this information collection request are classified as conditions of participation or conditions for coverage. Portable X-rays are basic radiology studies (predominately chest and extremity X-rays) performed on patients in skilled nursing facilities, residents of long-term care facilities and homebound patients. The CoPs are based on criteria described in the law, and are designed to ensure that each portable X-ray supplier has properly trained staff and provides the appropriate type and level of care for patients. We use these conditions to certify suppliers of portable X-ray services wishing to participate in the Medicare program. This is standard medical practice and is necessary in order to help to ensure the well-being, safety and quality professional medical treatment accountability for each patient. There is a significant increase in the burden due to burden that was not accounted for in the previous information collection request. *Form Number:* CMS–R–43 (OMB Control number: 0938–0338); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 5,986,509; *Total Annual Responses:* 5,987,018; *Total Annual Hours:* 532,959. (For policy questions regarding this collections contact Sonia Swancy at 410–786–8445.)

Dated: April 4, 2018.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2018–07247 Filed 4–9–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1262]

Notice of Approval of Products Under Voucher: Rare Pediatric Disease Priority Review Vouchers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of several approvals of products redeeming a priority review voucher. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the issuance of vouchers as well as the approval of products redeeming a voucher.

FOR FURTHER INFORMATION CONTACT: Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4061, Fax: 301–796–9856, email: *althea.cuff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will report the issuance of rare pediatric disease priority review vouchers and the approval of products for which a voucher was redeemed.

FDA has determined that the following approved drugs meet the redemption criteria:

- PRALUENT (alirocumab) approved July 24, 2015,
- SOLIQUA (insulin glargine and lixisenatide) approved November 21, 2016, and
- JULUCA (dolutegravir and rilpivirine) approved November 21, 2017.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about PRALUENT (alirocumab), SOLIQUA (insulin glargine and lixisenatide), and JULUCA (dolutegravir and rilpivirine), go to the ''Drugs@FDA'' website at *https://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: April 4, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–07256 Filed 4–9–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; CRIC Ancillary Study (R01)

Date: May 17, 2018.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 496–9010, *hoffertj@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pragmatic Research and Natural Experiments.

Date: May 18, 2018.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–012: NIDDK Program Projects (P01).

Date: May 24, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–7682, *campd@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; P01 Application Bladder Physiology.

Date: May 31, 2018.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, review branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–4721, *ryan.morris@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 4, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–07268 Filed 4–9–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee:

National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Research.

Date: May 1, 2018.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898 *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–17–270: NIDDK Central Repositories Non-renewable Samples Access (X01).

Date: May 2, 2018.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy

Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894 *begumn@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Multi-Center Clinical Trial (U01) Review.

Date: May 10, 2018.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707, Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 4, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–07267 Filed 4–9–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Loan Repayment Program (LRP) review, (2018/08).

Date: April 23, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John P. Holden, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Room 920, Democracy Two, Bethesda, MD 20892, (301) 496–8775, *john.holden@mail.nih.gov*.

Dated: April 4, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–07264 Filed 4–9–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Biomedical Imaging and Bioengineering.

Date: May 23, 2018.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Report from the Acting Institute Director, other Institute Staff and Scientific Presentation.

Place: The William F. Bolger Center, Bolger Center Hotel Lobby, Overland Room, 9600 Newbridge Drive, Potomac, MD 20854.

Closed: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The William F. Bolger Center, Bolger Center Hotel Lobby, Overland Room, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: David T. George, Ph.D., Acting Associate Director, Office of Research Administration, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 920, Bethesda, MD 20892.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.nibib1.nih.gov/about/NACBIB/NACBIB.htm,* where an agenda and any additional information for the meeting will be posted when available.

Dated: April 4, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–07265 Filed 4–9–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Esophageal-Related P01s.

Date: April 16, 2018.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard,

Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Partnerships with Professional Societies Review Meeting.

Date: April 17, 2018.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John F. Connaughton, Ph.D., Chief, Scientific Review Branch, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Loan Repayment Review Meeting.

Date: April 18, 2018.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John F. Connaughton, Ph.D., Chief, Scientific Review Branch, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7007, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797 *connaughtonj@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Digestive Diseases and Nutrition Clinical SBIRs.

Date: April 19, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895 *rushingp@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Rearch; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–07266 Filed 4–9–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on April 23, 2018, 2:00 p.m.–3:00 p.m. (EDT) in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Assistant Secretary for Mental Health and Substance Use in accordance with Title 5 U.S.C 552b(c)(4) and (6) and Title 5 U.S.C. App. 2, § 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee website at *http://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer; Tracy Goss (see contact information below).

Council Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: April 23, 2018, 2:00 p.m.–3:00 p.m. EDT, CLOSED.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Fax: (240) 276–2252, Email: *tracy.goss@samhsa.hhs.gov*.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2018–07250 Filed 4–9–18; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0100]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for the Return of Original Documents

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 11, 2018.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0100 in the body of the letter, the agency name and Docket ID USCIS–2008–0010. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0010;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW,

Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0010 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for the Return of Original Documents.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–884; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information will be used by USCIS to determine whether a person is eligible to obtain original documents contained in an alien file.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–884 is 6,600 and the estimated hour burden per response is 0.5 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,300 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $808,500.

Dated: April 4, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–07270 Filed 4–9–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0095]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Appeal or Motion

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 10, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0095 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on January 12, 2018, at 83 FR 1624, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter

USCIS–2008–0027 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Appeal or Motion.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–290B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* The form serves the purpose of standardizing requests for motions and appeals and ensures that the basic information required to adjudicate appeals and motions is provided by applicants and petitioners, or their attorneys or representatives. USCIS uses the data collected on Form I–290B to determine whether an applicant or petitioner is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the requested immigration benefit. Form I–290B can also be filed with Immigration and Customs Enforcement (ICE) by schools appealing decisions on Form I–17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–290B is 24,878 and the estimated hour burden per response is 1.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 37,317 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $7,407,523.

Dated: April 4, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–07271 Filed 4–9–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0114]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Civil Surgeon Designation

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 10, 2018. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0114] in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on January 19, 2018, at 83 FR 2815, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2013–0002 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Civil Surgeon Designation.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–910; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit.* This information collection is required to determine whether a physician meets the statutory and regulatory requirement for civil surgeon designation. For example, all documents are reviewed to determine whether the physician has a currently valid medical license and whether the physician has had any action taken against him or her by the medical licensing authority of the U.S. state(s) or U.S. territories in which he or she practices. If the Application for Civil Surgeon Designation (Form I–910) is approved, the physician is included in USCIS' public Civil Surgeon locator and is authorized to complete Form I–693 (OMB Control Number 1615–0033) for an applicant's adjustment of status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–910 is 538 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,076 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $26,460.

Dated: April 4, 2018.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2018–07269 Filed 4–9–18; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–09]

30-Day Notice of Proposed Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors Federal Housing Administration (FHA) Healthcare Facility Documents: Proposed Revisions and Updates of Information Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date: May 10, 2018.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 19, 2017 at 82 FR 23058.

A. Overview of Information Collection

Title of Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors, Federal Housing Administration (FHA) Healthcare Facility Documents: Proposed Revisions and Updates of Information Collection.

OMB Approval Number: 2502–0605.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9001–ORCF, HUD–9002–ORCF, HUD–9003–ORCF, HUD–9004–ORCF, HUD–9005–ORCF, HUD–9005a-ORCF, HUD–9006–ORCF, HUD–9007–ORCF, HUD–9007a-ORCF, HUD–9009–ORCF, HUD–90010–ORCF, HUD–90011–ORCF, HUD–9444–ORCF, HUD–90012–ORCF, HUD–90013–ORCF, HUD–90014–ORCF, HUD–90015–ORCF, HUD–90016–ORCF, HUD–90017–ORCF, HUD–90018–ORCF, HUD–90021–ORCF, HUD–9442–ORCF, HUD–90023–ORCF, HUD–91123–ORCF, HUD–91124–ORCF, HUD–91125–ORCF, HUD–91127–ORCF, HUD–91129–ORCF, HUD–92328–ORCF, HUD–92403–ORCF, HUD–92408–ORCF, HUD–92415–ORCF, HUD–92437–ORCF, HUD–92441–ORCF, HUD–92441a-ORCF, HUD–92442–ORCF, HUD–92448–ORCF, HUD–92450–ORCF, HUD–92452–ORCF, HUD–92452A–ORCF, HUD–92455–ORCF, HUD–92456–ORCF, HUD–92479–ORCF, HUD–92485–ORCF, HUD–92554–ORCF, HUD–93305–ORCF, HUD–95379–ORCF, HUD–2–ORCF, HUD–935.2D–ORCF, HUD–941–ORCF, HUD–9445–ORCF, HUD–9839–ORCF, HUD–90022–ORCF, HUD–90024–ORCF, HUD–91116–ORCF, HUD–91126–ORCF, HUD–91130–ORCF, HUD–92000–ORCF, HUD–92264a-ORCF, HUD–92434–ORCF, HUD–90020–ORCF, HUD–92322–ORCF, HUD–92211–ORCF, HUD–92331–ORCF, HUD–92333–ORCF, HUD–92334–ORCF, HUD–92335–ORCF, HUD–92336–ORCF, HUD–92337–ORCF, HUD–92339–ORCF, HUD–92340–ORCF, HUD–92341–ORCF, HUD–92342–ORCF, HUD–92343–ORCF, HUD–2205A–ORCF, HUD–91110–ORCF, HUD–91111–ORCF, HUD–91112–ORCF, HUD–91118–ORCF, HUD–91710–ORCF, HUD–92023–ORCF, HUD–92070–ORCF, HUD–92071–ORCF, HUD–92223–ORCF, HUD–92323–ORCF, HUD–92324–ORCF, HUD–92330–ORCF, HUD–92330A–ORCF, HUD–92420–ORCF, HUD–92435–ORCF, HUD–92466–ORCF, HUD–92466A–ORCF, HUD–92468–ORCF, HUD–94000–ORCF, HUD–94000–ORCF–ADD, HUD–94000B–ORCF, HUD–94001–ORCF, HUD–94001–ORCF–RI, HUD–9443–ORCF, HUD–91071–ORCF, HUD–91128–ORCF, HUD–92412–ORCF, HUD–92414–ORCF, HUD–92464–ORCF, HUD–92476–ORCF, HUD–92476B–ORCF, HUD–92476C–ORCF, HUD–91117–ORCF, HUD–91725–ORCF, HUD–91725–INST–ORCF, HUD–91725–CERT–ORCF, HUD–92325–ORCF, HUD–92327–ORCF, HUD–1044–D–ORCF, HUD–2537–ORCF, HUD–2747–

ORCF, HUD–9250–ORCF, HUD–9807–ORCF, HUD–90019–ORCF, HUD–90029–ORCF, HUD–90030–ORCF, HUD–90031–ORCF, HUD–90032–ORCF, HUD–90033–ORCF, HUD–92080–ORCF, HUD–92117–ORCF, HUD–92228–ORCF, HUD–92266–ORCF, HUD–92266A–ORCF, HUD–92266B–ORCF, HUD–92266C–ORCF, HUD–92417–ORCF, HUD–93332–ORCF, HUD–93333–ORCF, HUD–93334–ORCF, HUD–93335–ORCF, HUD–93479–ORCF, HUD–93480–ORCF, HUD–93481–ORCF, HUD–93486–ORCF, HUD–91116A–ORCF, HUD–92211A–ORCF, HUD–92323A–ORCF, HUD–92324A–ORCF, HUD–92333A–ORCF, HUD–92334A–ORCF, HUD–92338–ORCF, HUD–92340A–ORCF, HUD–92434A–ORCF, HUD–92441B–ORCF, HUD–92467–ORCF, HUD–92467A–ORCF, HUD–94000A–ORCF, HUD–94001A–ORCF

Description of the need for the information and proposed use: The issuance of this notice is modeled on the public review and input process that HUD utilized in the establishment of the healthcare facility documents for Section 232 of the National Housing Act (Section 232) program. On March 14, 2013, at 78 FR 16279, after solicitation of comment, HUD published in the **Federal Register** a notice that announced the approval of the healthcare facility documents under the Paperwork Reduction Act of 1995 (44U.S.C. 3501–3520) (PRA) and an assignment of a control number, 2502–0605, by the Office of Management and Budget(OMB). The final collection received a 12-month approval. Following OMB approval, on February 17, 2014, at 79 FR 11114, HUD solicited additional comment before seeking a 36-month approval. After the appropriate comment and response periods, the healthcare facility documents were approved for a 36-month renewal, as of June 30, 2014, with an expiration of June 2017. As required by 5 CFR 1320.8(d)(1) and consistent with HUD's process utilized when establishing the healthcare facility documents, HUD is soliciting comments from members of the public and interested parties on the renewal of the revised healthcare facility documents. The healthcare facility documents include 156 documents going through the PRA process and available for review at: *www.hud.gov/232comments.* All of the documents that are the subject of this notice are also listed above. All documents are presented online in redline/strikeout format, so that the reviewer can see the changes proposed to be made to the documents. A majority of the documents are being renewed, and some include edits that were made to address changes in policies in recent years or to address inconsistencies across documents and other Program Obligations (*i.e.* the Section 232 Handbook 4232.1). The collection also includes new additions to fold in tools previously only found in the Multifamily Housing document collections, as well as to create consistent formats for submitting information to Office Residential Care Facilities (ORCF) that was not previously captured in the 2014document collection, but that is required by ORCF. A few obsolete documents are being removed as well. These include resources that are no longer relevant to ORCF or duplicate information already found in other documents. An example would include documents specifically related to ''Blended Rate'' transactions. ORCF updated its policies after determining that, consistent with FHA Multifamily Housing's approach, an otherwise eligible transaction could come within either the Section 223(f) criteria or the Section 232 Substantial Rehabilitation criteria and that, therefore, a blending of the loan-to-value criteria of those two programs is not necessary.

A brief summary of the more significant changes per documentation category is provided below.

- Lender Narratives—The edits consist primarily of changes to remove program guidance from the narratives and to incorporate updated underwriting standards specific to, for example, special use facilities.
- Consolidated Certifications—The changes consist of streamlining the form and revising language to incorporate the changed policy in the new previous participation regulation with new definitions such as Controlling Participant.
- Construction documents—Several documents are proposed that will replace the current versions of the Multifamily forms still in use, such as a new Borrower Certification for Early Start/Early Commencement of Construction projects.
- Underwriting documents—A new form was added—New Fair Housing Marketing Plan document—which provides the Affirmative Fair Housing Marketing Plan Requirements. ORCF removed one obsolete document (Agreement for Payment of Real Property Taxes)that is more specific to multifamily housing, and not relevant to healthcare facilities, as well as the Certificate of Need for Health Facilities and Schedule of Facilities Owned, Operated or Managed, which both contained duplicative information provided in other documents. The new Affirmative Fair Housing Marketing Plans (AFHMPs) was vetted with Fair Housing and Equal Opportunity (FHEO); other HUD programs had unique AFHMPs for their programs, and this new form is meant to accomplish the same for healthcare facilities. Appraisal information will also, be collected via a new spreadsheet that is similar to a collection method used by the multifamily housing ''wheelbarrow''.
- Accounts Receivable (AR) documents—Edits include changes made to the Inter-creditor Agreement form to address an ongoing issue of how operators should disclose any cross-defaults between the AR loan and the HUD loan.
- Master Lease documents—Changes include adding two new forms: Termination and Release of Cross-Default Guaranty of Subtenants—Proposed and Amendment to HUD Master Lease (Partial Termination and Release)—Proposed to reflect the 232 Handbook policy related to a release of a project from a master lease.
- Closing documents—Edits were made to the Surplus Cash Note and Subordination Agreement—(Financing) to restrict distributions when there is secondary financing. Security Instrument/Mortgage Deed Instrument/Mortgage Deed of Trust to reflect Multifamily' s form and reduces the need to amend the document when the Regulatory Agreement—Borrower paragraph 38 is changed. New residential care facilities versions of Certificate of Actual Cost as well as a Rider to Security Instrument—LIHTC—were incorporated into the collection to replace Multifamily versions still in use which did not reflect ORCF policy.
- Regulatory Agreement for Fire Safety—A new Regulatory Agreement for Fire Safety projects and a Management Agreement Addendum, as well as formalization of a Lender Certification for Insurance Coverage, to incorporate current samples already in place was added to the documentation collection.
- Escrow documents—New proposed escrow forms for long-term debt service reserves and Off-Site Facilities were also added.
- Asset Management documents—Change of participant application documents were revised to streamline the documents needed for a change in title of mortgaged property, change of operator or management agent, or complete change of all the parties. Documents still being used in the Multifamily format were incorporated into this collection, to specifically

address ORCF policy. New Lender Narratives were also added for the addition of Accounts Receivable, for Requests to Release or Modify Original Loan Collateral and Loan Modifications (along with a corresponding Certification). New forms were also added to incorporate existing samples in use for 232 HUD Healthcare Portal Access, and notification to ORCF, by the Servicer and Operator of developing concerns within a project.

• Supplemental Loan Documents. Section 241(a) Mortgage Insurance for Supplemental Loans for Multifamily Projects. All Section 241a loan documents that have been in use as samples are now made a part of the documentation collection for OMB approval.

Note: HUD makes no changes to the Legal Opinion and Certification Documents.

Respondents: (*i.e.* affected public): Business or other for profit: 8.

Estimated Number of Respondents: 5,451.00.

Estimated Number of Responses: 26,027.43.

Frequency of Response: 4,7748.

Average Hours per Response: 1.872132.

Total Estimated Burdens: 48,426.79.

Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: *March 29, 2018.*

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07332 Filed 4–9–18; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1189 (Review)]

Large Power Transformers From Korea

AGENCY: United States International Trade Commission.

ACTION: Notice, Scheduling of a full five-year review.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on large power transformers from Korea 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: April 3, 2018.

FOR FURTHER INFORMATION CONTACT: Nathanael Comly (202–205–3174) or Christopher W. Robinson (202–205–2542), 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 this review 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 review were such that a full review should proceed (82 FR 49229, October 24, 2017); accordingly, a full review is 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 review 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 this review 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 review 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 review.

For further information concerning the conduct of this review 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 this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review 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 review will be placed in the nonpublic record on July 10, 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 review beginning at 9:30 a.m. on Thursday, July 26, 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 20, 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 23, 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 review 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 18, 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 207.67 of the Commission's rules. The deadline for filing posthearing briefs is August 3, 2018. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before August 3, 2018. On September 5, 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 September 7, 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 review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C.1675(c)(5)(B).

Authority: This review is 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: April 5, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–07305 Filed 4–9–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1107

Certain Led Lighting Devices and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 6, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Fraen Corporation of Reading, Massachusetts. The complaint was supplemented on March 20, 2018. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain LED lighting devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,411,083 (''the '083 patent'') and 9,772,499 (''the '499 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 3, 2018, 2018, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain LED lighting devices and components thereof by reason of infringement of one or more of claims 1, 3, 5–10, 12–16 and 19 of the '083 patent and claims 1 and 3–10 of the '499 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Fraen Corporation, 80 Newcrossing Road, Reading, MA 01867

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Chauvet & Sons, Inc., 5200 NW 108th Avenue, Sunrise, FL 33351

ADJ Products, LLC, 6122 S. Eastern Avenue, Los Angeles, CA 90040

Elation Lighting, Inc., 6122 S. Eastern Avenue, Los Angeles, CA 90040
Golden Sea Professional, Equipment Co., Ltd., No. 109 Haiyong Road, Shiqi Town, Panyu District, Guangzhou, Guangdong 511450, China
Artfox USA, Inc., 733 S. 9th Avenue, City of Industry, CA 91745
Artfox Electronics Co., Ltd., No. 198 Guanghua 1st Road, Baiyun District, Guangzhou, Guangdong 510447, China
Guangzhou Chaiyi Light Co., Ltd., d/b/a/ Fine Art Lighting Co., Ltd., No. 8 Kexing Road, Guangzhou Civilian, Scien-tech Park, No. 1633 Beitai Road, Baiyun District, Guangzhou, Guangdong 510000, China
Guangzhou Xuanyi Lighting Co., Ltd., d/b/a/ XY E-Shine, Building A, Longhu First Industrial Zone, Shijing Road, Baiyun District, Guangzhou, Guangdong 510430, China
Guangzhou Flystar Lighting, Technology Co., Ltd., 3rd Floor, B Building, Huihuang Industrial Estate, Nanfang Village, Renhe Town, Baiyun District, Guangzhou, Guangdong 510000, China
Wuxi Changsheng Special, Lighting Apparatus Factory, d/b/a/ Roccer, 2nd Industrial Zone, Dangxiao Road, Luqu, Wuxi, Jiangsu 214000, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 4, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–07306 Filed 4–9–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1085]

Certain Glucosylated Steviol Glycosides, and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting a Joint Motion to Terminate the Investigation Based on Settlement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (Order No. 7) granting a joint motion to terminate the investigation based on settlement.

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 the investigation on November 27, 2017, based on a complaint filed by PureCircle USA Inc. of Oak Brook, Illinois and PureCircle Sdn Bhd of Kuala Lumpur, Malaysia (collectively, ''PureCircle''). 82 FR 56049 (Nov. 27, 2017). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain glucosylated steviol glycosides, and products containing same by reason of infringement of U.S. Patent No. 9,420,815. The named respondents included Sweet Green Fields USA LLC and Sweet Green Fields Co., Ltd., both of Bellingham, Washington, and Ningbo Green-Health Pharma-ceutical Co., Ltd. of Zhejiang, China (collectively, ''SGF''). The Office of Unfair Import Investigations was not named as a party.

On March 1, 2018, PureCircle and SGF filed a joint motion to terminate the investigation based on a settlement agreement.

On March 14, 2018, the presiding administrative law judge (''ALJ'') issued an initial determination (''ID'') (Order No. 7), granting the motion. The ALJ found that the motion complies with the Commission's Rules of Practice and Procedure and that there was no evidence that termination is contrary to the public interest. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

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: April 5, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–07314 Filed 4–9–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On April 4, 2018, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Missouri in the lawsuit entitled *United States and*

State of Missouri v. *The Doe Run Resources Corporation,* Civil Action No. 18–502.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States' complaint names The Doe Run Resources Corporation as the Defendant. The complaint seeks recovery of costs that the United States incurred responding to releases of hazardous substances at the Big River Mine Tailings Superfund Site in St. Francois County, Missouri. The complaint also seeks injunctive relief in the form of the performance of the selected remedy for Operable Unit 01 of the Site.

The Consent Decree requires the defendant to perform the selected remedy on approximately 4,100 affected residential properties, to perform a removal action at the Hayden Creek Mine Waste Area, and to provide the Environmental Protection Agency and its contractors with free access to defendant's soil repository at the Leadwood site. The Environmental Protection Agency will reimburse the Defendant for up to forty percent of the costs it incurs performing the work required by the consent decree, up to a maximum of $31.56 million. In return for the Defendant's commitments, the United States agrees not to sue the Defendant under Sections 106 and 107 of CERCLA.

The Consent Decree also requires the United States, on behalf of the Department of Defense, Department of the Army, Department of the Treasury, and Department of the Interior, to make a monetary payment to Doe Run, and resolves the United States' potential liability under CERCLA related to Operable Unit 01 at the Big River Mine Tailings Superfund Site, including any liability the United States may have to Doe Run under Section 113 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Missouri* v. *The Doe Run Resources Corporation,* D.J. Ref. No. 90–11–3–09306/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $12.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–07229 Filed 4–9–18; 8:45 am]

BILLING CODE 4410&ndash15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than April 20, 2018.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 20, 2018.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 27th day of February 2018.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[117 TAA petitions instituted between 1/29/18 and 2/23/18]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93458	ABC Coke, Division of Drummond Company, Inc. (State/One-Stop)	Tarrant, AL	01/29/18	01/26/18
93459	Ascena Retail Group Inc/Maurices (State/One-Stop)	Duluth, MN	01/29/18	12/11/17
93460	Ascension Health/Ministry (Workers)	Appleton, WI	01/29/18	01/09/18
93461	AT&T (Workers)	El Paso, TX	01/29/18	01/24/18
93462	Bank of America (State/One-Stop)	Simi Valley, CA	01/29/18	12/01/17
93463	California Psychology Association (State/One-Stop)	Valley Village, CA	01/29/18	12/11/17
93464	Callery (Company)	Evans City, PA	01/29/18	11/29/17
93465	CHS (State/One-Stop)	Inver Grove Heights, MN	01/29/18	12/18/17
93466	CMS Labor Services (State/One-Stop)	Hartsville, SC	01/29/18	01/26/18

APPENDIX—Continued

[117 TAA petitions instituted between 1/29/18 and 2/23/18]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93467	Ericsson, Inc. (Workers)	Waltham, MA	01/29/18	01/10/18
93468	First Guaranty Mortgage Corp (State/One-Stop)	Frederick, MD	01/29/18	01/11/18
93469	Hemlock Semiconductor (State/One-Stop)	Hemlock, MI	01/29/18	12/20/17
93470	IBM (State/One-Stop)	Phoenix, AZ	01/29/18	12/20/17
93471	Payless (State/One-Stop)	Topeka, KS	01/29/18	01/26/18
93472	PDM Steel Service Centers, Inc. (State/One-Stop)	Stockton, CA	01/29/18	01/26/18
93473	Prolifics, Inc. (State/One-Stop)	Calabasas, CA	01/29/18	01/26/18
93474	TE Connectivity (Workers)	Mt. Joy, PA	01/29/18	11/28/17
93475	Vyaire (State/One-Stop)	Plymouth, MN	01/29/18	11/27/17
93476	Tenax (State/One-Stop)	Evergreen, AL	01/29/18	12/12/17
93477	TitanX Engine Cooling, Inc. (Company)	Jamestown, NY	01/29/18	12/21/17
93478	Unitek Services Inc. at GE Erie (State/One-Stop)	Erie, PA	01/29/18	01/09/18
93479	Unitron US Inc. (State/One-Stop)	Plymouth, MN	01/29/18	12/14/17
93480	Quad Graphics Waseca (State/One-Stop)	Waseca, MN	01/29/18	12/14/17
93481	A.M. General LLC. (Union)	Mishawaka, IN	01/30/18	01/27/18
93482	Arkema, Inc. (State/One-Stop)	King of Prussia, PA	01/30/18	01/24/18
93483	AVX Corporation (Company)	Myrtle Beach, SC	01/30/18	01/24/18
93484	CA Technologies (State/One-Stop)	Fort Collins, CO	01/30/18	01/12/18
93485	CHS (State/One-Stop)	South Sioux City, NE	01/30/18	01/16/18
93486	Continental Tire (State/One-Stop)	Mt. Vernon, IL	01/30/18	01/12/18
93487	E. I. Du Pont de Nemours & Company (State/One-Stop)	Nevada, IA	01/30/18	01/19/18
93488	H.Kramer (State/One-Stop)	Chicago, IL	01/30/18	01/12/18
93489	Itron, Inc including on-site leased workers from Crown Services, Inc. (State/One-Stop).	Owenton, KY	01/30/18	01/25/18
93490	LSC Communications US, LLC. (State/One-Stop)	Long Prairie, MN	01/30/18	01/19/18
93491	Manpower Employment Agency Company)	Neosho, MO	01/30/18	01/18/18
93492	Outokumpu Stainless USA, LLC (State/One-Stop)	Bannockburn, IL	01/30/18	01/12/18
93493	Ryerson (State/One-Stop)	Blytheville, AR	01/30/18	01/26/18
93494	Secure Toss (State/One-Stop)	Vernon, VT	01/30/18	01/23/18
93495	Teradyne, Field Services (State/One-Stop)	North Reading, MA	01/30/18	01/29/18
93496	Transweb/Parker (Workers)	Vineland, NJ	01/30/18	01/23/18
93497	WKW Extrusion-Bowers Manufacturing Company (State/One-Stop)	Portage, MI	01/30/18	01/26/18
93498	Yanfeng Global Automotive Interiors (State/One-Stop)	Highland Park, MI	01/30/18	01/17/18
93499	Zodiac Seats CA, LLC (State/One-Stop)	Rancho Cucamonga, CA	01/30/18	01/18/18
93500	Autolite Fram Group (Union)	Fostoria, OH	01/31/18	01/30/18
93501	Boyd Coffee Company (Company)	Portland, OR	01/31/18	01/29/17
93502	Kentucky Electric Steel Company (Union)	Ashland, KY	01/31/18	01/26/18
93503	Medtronic (Company)	Littleton, MA	01/31/18	01/30/18
93504	Transamerica Life Insurance Company (Workers)	St. Petersburg, FL	01/31/18	01/30/18
93505	Tridien Medical (Company)	Fishers, IN	01/31/18	01/29/18
93506	AIG PC Global Services, Inc. (State/One-Stop)	New York, NY	02/01/18	01/31/18
93507	Cherrington Enterprise—Production (State/One-Stop)	Clarissa, MN	02/01/18	01/31/18
93508	Nippon Steel & Sumikin Materials USA Inc (Company)	Fayetteville, TN	02/01/18	01/31/18
93509	Skretting dba Nelson and Son's (State/One-Stop)	Tooele, UT	02/01/18	01/31/18
93510	Transact Technologies (State/One-Stop)	Ithaca, NY	02/01/18	01/31/18
93511	CMA CGM (America) (State/One-Stop)	Norfolk, VA	02/02/18	02/01/18
93512	Gildan Garments Inc. (Company)	New Bedford, MA	02/02/18	02/02/18
93513	KACO New Energy, Inc. (KACO USA) (Company)	San Antonio, TX	02/02/18	01/30/18
93514	Meijer Inc. Great Lakes Partnership (State/One-Stop)	Grand Rapids, MI	02/02/18	01/31/18
93515	Travelport (Workers)	Centennial, CO	02/02/18	02/01/18
93516	Amtrol, Inc. (State/One-Stop)	West Warwick, RI	02/05/18	02/02/18
93517	Triumph Aerostructures, Vought Aircraft (Union)	Grand Prairie, TX	02/05/18	02/02/18
93518	BASF Chemicals Division (State/One-Stop)	Freeport, TX	02/06/18	02/05/18
93519	Cone Denim—Administration and Sales (Company)	Greensboro, NC	02/06/18	02/06/18
93520	Dentsply Sirona (State/One-Stop)	Des Plaines, IL	02/06/18	02/05/18
93521	PCI Nitrogen LLC (State/One-Stop)	Pasadena, TX	02/06/18	02/05/18
93522	Siemens Industry, Inc., Energy Management Division (Company)	West Chicago, IL	02/06/18	01/30/18
93523	Sony DADC (Workers)	Terre Haute, IN	02/06/18	02/04/18
93524	EVRAZ Stratcor (State/One-Stop)	Hot Springs, AR	02/07/18	02/06/18
93525	Gladieux Metals Recycling, LLC (State/One-Stop)	Freeport, TX	02/07/18	02/06/18
93526	JSW Steel (USA) (State/One-Stop)	Baytown, TX	02/07/18	02/06/18
93527	Ricoh USA (State/One-Stop)	Lincoln, NE	02/07/18	02/06/18
93528	Convergys (State/One-Stop)	Sergeant Bluff, IA	02/08/18	02/07/18
93529	Eaton (State/One-Stop)	Shenandoah, IA	02/08/18	02/07/18
93530	HCL America, Inc. (Workers)	Naperville, IL	02/08/18	02/06/18
93531	Siemens Gamesa Renewable Energy (State/One-Stop)	Fort Madison, IA	02/08/18	02/07/18
93532	StandardAero (Company)	Los Angeles, CA	02/08/18	02/07/18
93533	Thomson Reuters (State/One-Stop)	Denver, CO	02/08/18	02/07/18
93534	Convergys (State/One-Stop)	Sergeant Bluff, IA	02/09/18	02/07/18
93535	Eaton Corporation (State/One-Stop)	Spencer, IA	02/09/18	02/09/18

APPENDIX—Continued

[117 TAA petitions instituted between 1/29/18 and 2/23/18]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
93536	Medtronic, PLC (Company)	Santa Rosa, CA	02/09/18	02/08/18
93537	NetCom Learning (Workers)	New York, NY	02/09/18	02/08/18
93538	Thomson Reuters (Workers)	New York, NY	02/09/18	02/08/18
93539	Payless (State/One-Stop)	Topeka, KS	02/12/18	02/09/18
93540	Carefusion Resources, LLC (State/One-Stop)	San Diego, CA	02/12/18	02/09/18
93541	Weldbend Corporation (State/One-Stop)	Argo, IL	02/12/18	02/09/18
93542	Weldbend (State/One-Stop)	Bedford Park, IL	02/12/18	02/09/18
93543	Ocwen (State/One-Stop)	Waterloo, IA	02/12/18	02/09/18
93544	Dover Business Services (State/One-Stop)	Hamilton, OH	02/12/18	02/09/18
93545	Flambeau River Papers LLC (Union)	Park Falls, WI	02/13/18	02/06/18
93546	General Motors (Union)	Saginaw, MI	02/13/18	02/13/18
93547	J.R. Simplot Company (State/One-Stop)	West Memphis, AR	02/13/18	02/12/18
93548	Nuance Communications, Inc. (State/One-Stop)	Burlington, MA	02/13/18	02/13/18
93549	Cellnetix (State/One-Stop)	Seattle, WA	02/14/18	02/12/18
93550	Crown Forwarding, Inc. (Company)	Danbury, CT	02/14/18	02/12/18
93551	Dormeo (State/One-Stop)	Winchester, VA	02/14/18	02/13/18
93552	Penske Logistics/Corestaff (Workers)	El Paso, TX	02/14/18	01/22/18
93553	Clinicient, Inc. (State/One-Stop)	Portland, OR	02/15/18	02/14/18
93554	National Credit Adjusters (State/One-Stop)	Hutchinson, KS	02/15/18	02/12/18
93555	Swanson Group (State/One-Stop)	Roseburg, OR	02/15/18	02/14/18
93556	TIDI Products LLC (Workers)	Fenton, MI	02/16/18	02/13/18
93557	Zodiac Aerospace (C&D Zodiac) (State/One-Stop)	Garden Grove, CA	02/16/18	02/15/18
93558	ITW Global Tire Repair (State/One-Stop)	Little Rock, AR	02/20/18	02/16/18
93559	Maplehurst Bakeries, LLC (Company)	Nashville, TN	02/20/18	02/15/18
93560	Nilfisk (State/One-Stop)	Brooklyn Park, MN	02/20/18	02/16/18
93561	Penske Logistics (State/One-Stop)	El Paso, TX	02/20/18	02/16/18
93562	Stahl USA (Workers)	Peabody, MA	02/20/18	11/15/17
93563	Telvista (State/One-Stop)	Danville, VA	02/20/18	02/16/18
93564	American Showa (State/One-Stop)	Blanchester, OH	02/21/18	02/20/18
93565	AT&T Services, Inc. (State/One-Stop)	Dallas, TX	02/21/18	02/20/18
93566	Allegro Microsystems, LLC (Workers)	Worcester, MA	02/22/18	02/14/18
93567	John Wiley & Sons, Inc. (State/One-Stop)	Hoboken, NJ	02/22/18	02/22/18
93568	Lord & Taylor LLC (Workers)	Wilkes Barre, PA	02/22/18	02/21/18
93569	Siemens Energy Inc. (Company)	Mount Vernon, OH	02/22/18	02/21/18
93570	Steel Warehouse (State/One-Stop)	Rock Island, IL	02/22/18	02/21/18
93571	S.E. Wood Products Inc. (State/One-Stop)	Colville, WA	02/23/18	02/22/18
93572	Smurfit Kappa (State/One-Stop)	City of Industry, CA	02/23/18	02/20/18
93573	The Guardian Life Insurance Company of America (State/One-Stop)	Pittsfield, MA	02/23/18	02/20/18
93574	Zones, Inc. (State/One-Stop)	Auburn, WA	02/23/18	02/21/18

[FR Doc. 2018–07298 Filed 4–9–18; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *January 29, 2018 through February 23, 2018.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i) (I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) The shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) The workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e))must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) The workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
92,589	Faurecia Automotive, 3100 Sims Drive	Sterling Heights, MI	January 27, 2016.
92,589A	Faurecia Automotive, 17801 East 14 Mile Road	Fraser, MI	January 27, 2016.
92,589B	Faurecia Automotive, 42555 Merrill Road	Sterling Heights, MI	January 27, 2016.
92,589C	Faurecia Automotive, 17805 Masonic Drive	Fraser, MI	January 27, 2016.
92,589D	Faurecia Automotive, 6100 Sims Drive	Sterling Heights, MI	January 27, 2016.
93,302	ContiTech USA, Inc., ContiTech, Continental AG	Sun Prairie, WI	November 9, 2016.
93,311	Temp, Inc	Fairmont, WV	November 15, 2016.
93,329	Kyklos Bearing International, LLC, American Axle Manufacturing	Sandusky, OH	December 11, 2017.
93,367	Pacific Crest Transformers, Inc., Personnel Source, Express Employment Professionals.	White City, OR	December 5, 2016.
93,374	Schawk USA Inc., SGK LLC, PeopleReady, Labor Ready	Kalamazoo, MI	December 14, 2016.

TA–W No.	Subject firm	Location	Impact date
93,419	Dole Berry Company, Dole Fresh Vegetables, Future Harvesters and Packers, etc.	Watsonville, CA	January 10, 2017.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
92,718	Adtalem Global Education, DeVry Education Group, Help Desk	Downers Grove, IL	March 10, 2016.
92,718A	Adtalem Global Education, DeVry Education Group, Help Desk	Oak Brook, IL	March 10, 2016.
92,778	United Technologies Aerospace Systems, Butler America Aerospace, LLC.	Chula Vista, CA	March 22, 2016.
92,834	Pearson	Bloomington, MN	April 20, 2016.
92,834A	Pearson	Boston, MA	April 20, 2016.
92,834B	Pearson	San Antonio, TX	April 20, 2016.
92,925	Bruker AXS Inc	Madison, WI	May 31, 2016.
92,936	Stratus Technologies, Inc., Information Technology	Maynard, MA	June 8, 2016.
92,956	Capgemini America, Inc., Capgemini North America, Capgemini, Cloud Infrastructure Services, etc.	Phoenix, AZ	June 16, 2016.
93,021	Durafiber Technologies	Grover, NC	July 18, 2016.
93,021A	Durafiber Technologies	Salisbury, NC	July 18, 2016.
93,021B	Durafiber Technologies	Huntersville, NC	July 18, 2016.
93,021C	Durafiber Technologies	Winnsboro, SC	July 18, 2016.
93,102	Sharp Electronics Corporation, Sharp Microelectronics of the Americas, Sharp Corporation, Adecco.	Camas, WA	August 17, 2016.
93,252	Toront-Dominion Bank/TD Holdings II, Inc., Toronto Dominion Bank, Enterprise Business Management Group, etc.	New York, NY	October 25, 2016.
93,255	Capgemini America, Inc., Capgemini North America, Operations Group, Cloud Infrastructure Services.	Chicago, IL	October 16, 2016.
93,256	Enterprise Services LLC (ES), Boulder, CO, Hewlett Packard Enterprise Services, etc.	Boulder, CO	October 27, 2016.
93,269	McAfee, LLC, Corporate Products Business Unit, Intel	Idaho Falls, ID	November 1, 2016.
93,312	Microsemi Corporation, DPG–PDM, Mid Oregon Personnel and Superior Staffing.	Bend, OR	November 15, 2016.
93,316	Vestas-American Wind Technology, Inc., WTG Engineering & Support VAME, Vestas Wind Systems A/S.	Portland, OR	November 17, 2016.
93,326	Oticon, Inc., Production Department, William Demant Holdings	Somerset, NJ	November 24, 2016.
93,330	Technicolor Connected Home USA, Technicolor USA, CDI, Thomson Licensing LLC.	Indianapolis, IN	November 28, 2016.
93,334	Flowserve Corporation, Clarks-Summit Parts Manufacturing Center	Clarks Summit, PA	November 27, 2016.
93,338	Display Products/DBA Data Display Products	El Segundo, CA	November 30, 2016.
93,344	Hewlett Packard Enterprise, EG AMS Supply Chain Manufacturing, Staff Management, Manpower, Bucher, etc.	Houston, TX	December 4, 2016.
93,358	HSBC Bank Technology and Services, USA (HTSU), HSBC Technology and Services, IT, HSBC North American Holdings, etc.	New York, NY	December 8, 2016.
93,369	Meggitt Aircraft Braking Systems Corporation, Meggitt-USA, Inc	Akron, OH	December 13, 2016.
93,391	DJO Global LLC, Finance and Accounting, DJO Global Inc., Target CW, Robert Half, etc.	Vista, CA	December 27, 2016.
93,397	Optum Technology, Incident and Fulfillment Group, UnitedHealth Group, Inc.	Santa Ana, CA	December 7, 2016.
93,398	Towers Watson Delaware, Inc., Willis Towers Watson, Aerotek, Fidato Partners, etc.	Philadelphia, PA	December 28, 2016.
93,400	Cooper Crouse-Hinds, LLC, Electrical Products Group, Eaton Corporation, Barpellam.	Houston, TX	January 2, 2017.
93,401	Philips Electronics North America Corp., CT/AMI Division, Randstad Sourceright.	Cleveland, OH	January 2, 2017.
93,402	AllCare Plus Pharmacy, Call Center Operations	Northborough, MA	December 29, 2016.
93,411	Rovia, LLC, WorldVentures Holdings, Avail, Cornerstone	Plano, TX	January 5, 2017.
93,413	GE Power (Formerly Alstom Power), General Electric, Action Technology, Aerotek, Fountain Group, etc.	Windsor, CT	January 8, 2017.
93,416	LEDVANCE, LLC, LEDVANCE Holdings, Experis, Manpower	Exeter, NH	January 10, 2017.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,347	Kellogg Sales Company, Sumner Sales Office, Keebler Company, Kellogg Company, CPC, Inc.	Sumner, WA	December 5, 2016.
93,357	Kellogg Sales Company, La Palma Distribution Center, Keebler Company, Kellogg Company.	La Palma, CA	December 4, 2016.
93,394	Industrial Sales & Manufacturing, Inc	Erie, PA	December 28, 2016.
93,407	LEDVANCE LLC, Eastern Distribution Center (EDC), LEDVANCE GMBH, Manpower.	Bethlehem, PA	January 5, 2017.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,305	Specialty Tires of America (PA), Inc., Polymer Enterprises, Inc	Indiana, PA	February 28, 2016.
93,342	Bridgestone Americas Tire Operation, Off Road Tire Plant	Normal, IL	February 28, 2016.
93,426	AMG Vanadium LLC	Cambridge, OH	May 12, 2016.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
92,728	Cooper Standard Automotive, Inc	New Lexington, OH.	
92,837	Hubergroup USA, Inc., California Division	Chino, CA.	
93,319	DNOW L.P.	Ponca City, OK.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
92,791	Alorica	North Sioux City, SD.	
93,088	BorgWarner, Transmission Systems, BorgWarner, Human Technologies Incorporated.	Bellwood, IL.	
93,175	Del Monte Foods, Inc., Sagar Creek Plant, Allegiant Staffing, Inc	Siloam Springs, AR.	
93,327	AG Manufacturing, Inc.	Wetumpka, AL.	
93,328	Altice Media Solutions LLC, Altice USA, Inc	Woodbury, NY.	
93,346	Alstom Signaling, Inc., Alstom Transport Holding US, Kelly Services	West Henrietta, NY.	
93,361	General Motors, Spring Hill Manufacturing, Development Dimensions International, G4S, etc.	Spring Hill, TN.	
93,377	Convergys Corporation	Cedar City, UT.	
93,379	Cequel Corp. d/b/a Suddenlink Communications, Altice USA	Parkersburg, WV.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
92,807	ITO Industries, Inc	Bristol, WI.	
93,320	SOLON Corporation, Aerotek, PeopleReady	Tucson, AZ.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
93,222	Alcatel-Lucent USA Inc., Nokia of America Corporation, Nokia, Tekmark Global Solutions.	Naperville, IL.	
93,258	Gonzalez Group, LLC	Jonesville, MI.	
93,331	Securitas Securities Services USA Inc., Kellogg Seelyville Bakery	Terre Haute, IN.	
93,335	Pacific Gas and Electric Co., Information Technology, Agile 1, Global Power Consulting, Brillio, etc.	San Francisco, CA.	
93,355	Philips Medical Systems (Cleveland) Inc., Adecco, APN, Infotree, NextGen, Randstad, Software Specialists, etc.	Aurora, IL.	
93,385	Xerox Corporation, Field Commission Specialists, Collectors/Payment Processors.	Rochester, NY.	
93,392	Turner Specialty Services, Honeywell Metropolis	Metropolis, IL.	

The following determinations terminating investigations were issued because the Department issued a negative determination applicable to the petitioning group of workers. No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination.

TA–W No.	Subject firm	Location	Impact date
93,383	Ryder Integrated Logistics, General Motors, Spring Hill Manufacturing Plant, Randstad USA.	Spring Hill, TN.	

I hereby certify that the aforementioned determinations were issued during the period of *January 29, 2018 through February 23, 2018.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 27th day of February 2018.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2018–07299 Filed 4–9–18; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Office of Federal Contract Compliance Programs Construction Recordkeeping and Reporting Requirements

AGENCY: Office of the Secretary, Department of Labor.

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Federal Contract Compliance Programs sponsored information collection request (ICR) revision titled, ''Office of Federal Contract Compliance Programs Construction Recordkeeping and Reporting Requirements,'' 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 May 10, 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=201801-1250-001* 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–OFCCP, 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 Office of Federal Contract Compliance Programs (OFCCP) Construction Recordkeeping and Reporting Requirements information collection that covers recordkeeping, reporting, and third-party disclosure requirements. The OFCCP administers several Executive Orders that prohibit employment discrimination and require covered Federal contractors to take affirmative action to ensure that equal employment opportunities are available regardless of race, sex, color, national origin, religion, or status as an individual with a disability or protected veteran. Recordkeeping and reporting by Federal and Federally assisted construction contractors and subcontractors is necessary to substantiate their compliance with nondiscrimination and affirmative action contractual obligations. This information collection has been classified as a revision for two reasons. First, the agency proposes to add a new form for the reporting requirement found at 41 CFR 60–4.2, which requires contracting officers, applicants, and contractors to submit written notifications to the OFCCP informing the agency of new contract awards that

exceed $10,000. Written notices are currently submitted to the OFCCP by fax, mail, or email; however, the new form will allow respondents to submit the notifications on the agency's website through the proposed Notification of Construction Contract Award Portal. In addition, this ICR would incorporate information collections that are currently approved under the ICRs titled ''Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions'' (Control Number 1250–0008) and ''Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors'' (Control Number 1250–0009). The merger of the collections will place related equal employment requirements for covered Federal construction contractors under master clearances.

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 1250–0001. 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 September 25, 2017 (82 FR 44663).

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 1250–0001. 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–OFCCP.

Title of Collection: Office of Federal Contract Compliance Programs Construction Recordkeeping and Reporting Requirements.

OMB Control Number: 1250–0001.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 15,582.

Total Estimated Number of Responses: 15,582.

Total Estimated Annual Time Burden: 985,450 hours.

Total Estimated Annual Other Costs Burden: $42,920.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–07288 Filed 4–9–18; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information, in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Job Openings and Labor Turnover Survey.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 11, 2018.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212, telephone number 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Job Openings and Labor Turnover Survey (JOLTS) collects data on job vacancies, labor hires, and labor separations. As the monthly JOLTS time series grow longer, their value in assessing the business cycle, the difficulty that employers have in hiring workers, and the extent of the mismatch between the unused supply of available workers and the unmet demand for labor by employers will increase. The study of the complex relationship between job openings and unemployment is of particular interest to researchers. While these two measures are expected to move in opposite directions over the course of the business cycle, their relative levels and movements depend on the efficiency of the labor market in matching workers and jobs.

Along with the job openings rate, trends in hires and separations may broadly identify which aggregate industries face the tightest labor markets. Quits rates, the number of persons who quit during an entire month as a percentage of total employment, may provide clues about workers' views of the labor market or their success in finding better jobs. In addition, businesses will be able to compare their own turnover rates to the national, regional, and major industry division rates.

The BLS uses the JOLTS form to gather employment, job openings, hires, and total separations from business establishments. The information is collected once a month at the BLS Data Collection Center (DCC) in Atlanta, Georgia. The information is collected using Computer Assisted Telephone Interviewing (CATI), Web, email, and

FAX. An establishment is in the sample for 24 consecutive months.

II. Current Action

Office of Management and Budget clearance is being sought for the JOLTS. The BLS is requesting an extension to the existing clearance for the JOLTS. There are no major changes being made to the forms, procedures, data collection methodology, or other aspects of the survey.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, 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.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Job Openings and Labor Turnover Survey.

OMB Number: 1220–0170.

Affected Public: Federal Government; State, Local, or Tribal governments; Businesses or other for-profit; Not-for-profit institutions; Small businesses and organizations.

Affected public	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden
Private	9,017	Monthly	108,203	10	18,034
State, Local, & Tribal Gov't	1,415	Monthly	16,980	10	2,830
Federal Gov't	393	Monthly	4,716	10	786
Totals	10,825	Monthly	129,900	10	21,650

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on April 3, 2018.

Eric Molina,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2018–07289 Filed 4–9–18; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–031)]

Human Exploration and Operations Research 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 Human Exploration and Operations Research Advisory Committee.

DATES: May 11, 2018, 9:00 a.m. to 4:45 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 1Q39, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter, Designated Federal Officer, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, phone (202) 358–0826, or email *bcarpenter@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may dial the USA toll free conference call number 844–467–6272 or toll number 720–259–6462, passcode 535959, followed by the # sign, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com,* the meeting number is 993 506 935, and the password is Exploration@2018.

The agenda for the meeting includes the following topics:

- NASA Space Life and Physical Sciences Research and Applications Status
- Center for the Advancement of Science In Space (CASIS) Status
- International Space Station (ISS) Research Planning
- Human Exploration and Operations Advisory Committee Evolution

Attendees will be requested to sign a register and to comply with NASA 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 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Dr. Bradley Carpenter via email at *bcarpenter@nasa.gov* or by fax at (202) 358–2886. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation no less than 3 working days prior to the meeting to Dr. Carpenter. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–07351 Filed 4–9–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2018–029]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: NARA is giving public notice that the agency proposes to request an extension to use the two information collections described in this notice, which the National Historical Publications and Records Commission (NHPRC) uses in its grant program. NARA invites the public to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 11, 2018 to be assured of consideration.

ADDRESSES: Comments should be sent by mail to Paperwork Reduction Act Comments (MP), Room 4100, National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740–6001, by fax to 301–837–0319, or by email to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Please direct requests for additional information or copies of the proposed information collections and supporting statements to Tamee Fechhelm, by telephone at 301–837–1694, or by fax at 301–837–0319.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by these collections. NARA will summarize and include submitted comments in our request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

1. *Title:* National Historical Publications and Records Commission (NHPRC) Grant Program Budget Form and Instructions and NHPRC Grant Offer Acknowledgement.

OMB number: 3095–0013.

Agency form number: NA Form 17001 and 17001a.

Type of review: Regular.

Affected public: Nonprofit organizations and institutions, state and local government agencies, and Federally-acknowledged or state-recognized Native American tribes or groups, who apply for and receive NHPRC grants for support of historical documentary editions, archival preservation and planning projects, and other records projects.

Estimated number of respondents: 244 per year submit applications; approximately 25 grantees need to submit revised budgets.

Estimated time per response: 10 hours per application; 5 hours per revised budget.

Frequency of response: On occasion for the application; as needed for revised budget. Currently, the NHPRC considers grant applications two times per year. Respondents usually submit no more than one application per year, and, for those who need to submit revised budgets, only one revised budget per year.

Estimated total annual burden hours: 1,765 hours.

Abstract: The NHPRC posts grant announcements to their website and to grants.gov (*www.grants.gov*), where the information will be specific to the grant opportunity named. The basic information collection remains the same. The NA Form 17001 is used by the NHPRC staff, reviewers, and the Commission to determine if the applicant and proposed project are eligible for an NHPRC grant, and whether the proposed project is methodologically sound and suitable for support. The NA Form 17001a, NHPRC Grant Offer Acknowledgement, is used after the Archivist of the United States, as chair of the Commission, recommends a grant for approval. The prospective grantee must acknowledge the offer of the grant and agree to meet the requirements of applicable Federal regulations. In addition, they must verify the existence of an indirect cost agreement with a cognizant Federal agency if they are claiming indirect costs in the project's budget.

2. *Title:* Accounting System and Financial Capability Questionnaire.

OMB number: 3095–0072.

Agency form numbers: NA Form 17003.

Type of review: Regular.

Affected public: Not-for-profit institutions and State, Local, or Tribal Government.

Estimated number of respondents: 75.

Estimated time per response: 4 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 300.

Abstract: Pursuant to the Title 2, Section 215 of the Code of Federal Regulations, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (formerly Office of Management and Budget (OMB) Circular A–110) and Office of Management and Budget Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations, grant recipients are required to maintain adequate accounting controls and systems in managing and administering Federal funds. Some of the recipients of grants from the National Historical Publications and Records Commission (NHPRC) have proven to have limited experience with managing Federal funds. This questionnaire is designed to identify those potential recipients and provide appropriate training or additional safeguards for Federal funds. Additionally, the questionnaire serves as a pre-audit function in identifying potential deficiencies and minimizing the risk of fraud, waste, abuse, or mismanagement, which we use in lieu of a more costly and time consuming formal pre-award audit.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2018–07252 Filed 4–9–18; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold one meeting of the Humanities Panel, a federal advisory committee, during May 2018. The purpose of the meeting is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting date. The meeting will open

at 8:30 a.m. and will adjourn by 5:00 p.m. on the date specified below.

ADDRESSES: The meeting will be held at Constitution Center at 400 7th Street SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meeting:

1. *Date:* May 7, 2018.

This meeting will discuss applications for the Institutes for Advanced Topics in the Digital Humanities, submitted to the Office of Digital Humanities.

Because this meeting will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meeting will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: April 5, 2018.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2018–07344 Filed 4–9–18; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0034]

Information Collection: Standards for Protection Against Radiation

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Standards for Protection Against Radiation.''

DATES: Submit comments by June 11, 2018. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0034. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail Comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2–F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0034 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0034.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The supporting statement and Standards for Protection Against Radiation are available in ADAMS under Accession No. ML18003A869.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV*.

B. Submitting Comments

Please include Docket ID NRC–2018–0034 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Part 20 of title 10 of the *Code of Federal Regulations (*10 CFR), ''Standards for Protection Against Radiation.''

2. *OMB approval number:* 3150–0014.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* Annually for most reports and at license termination for reports dealing with decommissioning.

6. *Who will be required or asked to respond:* NRC licensees and Agreement State licensees, including those requesting license terminations. Types of licensees include civilian commercial, industrial, academic, and

medical users of nuclear materials. Licenses are issued for, among other things, the possession, use, processing, handling, and importing and exporting of nuclear materials, and for the operation of nuclear reactors.

7. *The estimated number of annual responses:* 43,530 (11,739 for reporting [1,677 NRC licensees and 10,062 Agreement State licensees], 21,018 for recordkeeping [3,003 NRC licensees and 18,015 Agreement State licensees], and 10,773 for third-party disclosures [1,539 NRC licensees and 9,234 Agreement State licensees]).

8. *The estimated number of annual respondents:* 21,018 (3,003 NRC licensees and 18,015 Agreement State licensees).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 640,776 hours (91,545 hours for NRC licensees and 549,231 hours for Agreement State licensees).

10. *Abstract:* 10 CFR part 20 establishes standards for protection against ionizing radiation resulting from activities conducted under licenses issued by the NRC and by Agreement States. These standards require the establishment of radiation protection programs, maintenance of radiation protection programs, maintenance of radiation records recording of radiation received by workers, reporting of incidents which could cause exposure to radiation, submittal of an annual report to NRC and to Agreement States of the results of individual monitoring, and submittal of license termination information. These mandatory requirements are needed to protect occupationally exposed individuals from undue risks of excessive exposure to ionizing radiation and to protect the health and safety of the public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 5th day of April 2018.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07257 Filed 4–9–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0064]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from March 13, 2018, to March 26, 2018. The last biweekly notice was published on March 27, 2018.

DATES: Comments must be filed by May 10, 2018. A request for a hearing must be filed by June 11, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website: Go to http://www.regulations.gov* and search for Docket ID NRC–2018–0064. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail Comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kay Goldstein, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1506, email: *kay.goldstein@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0064, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website: Go to http://www.regulations.gov* and search for Docket ID NRC–2018–0064.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0064, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov,* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from

the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly-available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate

proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (HBRSEP), Darlington County, South Carolina

Date of amendment request: February 7, 2018. A publicly-available version is in ADAMS under Accession No. ML18038B289.

Description of amendment request: The amendment would revise Technical Specification (TS) Section 3.4.3, ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits,'' to reduce the applicability terms from 50 effective full power years (EFPY) to 46.3 EFPY in Figures 3.4.3–1 and 3.4.3–2, as a result of the removal of part length fuel assemblies (PLSAs) and the migration to 24-month fuel cycles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises TS 3.4.3 to reflect that Figures 3.4.3–1 and 3.4.3–2 (P/T limit curves) are applicable up to 46.3 EFPY instead of 50 EFPY with the removal of PLSAs and migration to 24-month fuel cycles. The proposed change does not involve physical changes to the plant or alter the reactor coolant system (RCS) pressure boundary (*i.e.,* there are no changes in operating pressure, materials or seismic loading). The P/T limit curves and Adjusted Reference Temperature (ART) values will remain as-is. Only the term to which the limit curves applies is effected by the proposed change. The P/T limit curves in TS 3.4.3 with an applicability term of 46.3 EFPY provide continued assurance that the fracture toughness of the reactor pressure vessel (RPV) is consistent with analysis assumptions and NRC regulations. The methodology used to develop the existing P/T limit curves provides assurance that the probability of a rapidly propagating failure will be minimized. The P/T limit curves, with the applicability term reduced to a proposed 46.3 EFPY, will continue to prohibit operation in regions where it is possible for brittle fracture of reactor vessel materials to occur, thereby assuring that the integrity of the RCS pressure boundary is maintained.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises TS 3.4.3 to reflect that Figures 3.4.3–1 and 3.4.3–2 (P/T limit curves) are applicable up to 46.3 EFPY instead of 50 EFPY with the removal of PLSAs and migration to 24-month fuel cycles. The proposed change does not affect the design or assumed accident performance of any structure, system or component, or introduce any new modes of system operation or failure modes. Compliance with the proposed P/T curves (same as the existing P/T curves with the applicability term reduced to 46.3 EFPY) will provide sufficient protection against brittle fracture of reactor vessel materials to assure that the RCS pressure boundary performs as previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises TS 3.4.3 to reflect that Figures 3.4.3–1 and 3.4.3–2 (P/T limit curves) are applicable up to 46.3 EFPY instead of 50 EFPY with the removal of PLSAs and migration to 24-month fuel cycles. HBRSEP adheres to applicable NRC regulations (*i.e.,* 10 CFR 50, Appendices G and H) and NRC-approved methodologies (*i.e.,* Regulatory Guides 1.99 and 1.190) with respect to the P/T limit curves in TS 3.4.3 in order to provide an adequate margin of safety to the conditions at which brittle fracture may occur. The P/T limit curves, with the applicability term reduced to 46.3 EFPY, continue to provide assurance that the established P/T limits are not exceeded.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, DEC45A, Charlotte NC 28202.

NRC Acting Branch Chief: Brian W. Tindell.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 7, 2018. A publicly-available version is in ADAMS under Accession No. ML18039A123.

Description of amendment request: LSCS Technical Specifications (TS) 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs),'' currently requires performance of Surveillance Requirement (SR) 3.6.1.3.8 on each excess flow check valve (EFCV) during each refueling outage. The proposed amendments would revise the number of EFCVs tested by TS SR 3.6.1.3.8 from ''each'' to a ''representative sample.'' The representative sample is based on approximately 20 percent of the reactor instrumentation line EFCVs such that each EFCV will be tested at least once every 10 years (nominal). Therefore, approximately 20 percent of the EFCVs will be tested every operating cycle.

The reduced testing associated with the proposed change will result in an increase in the availability of the associated instrumentation during outages and will result in dose savings.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: No.

The EFCVs at LSCS, Unit 1 and Unit 2, are designed so that they will not close accidently during normal operations, will close if a rupture of the instrument line is indicated downstream of the valve, can be reopened when appropriate, and have their status indicated in the control room. This proposed change relaxes the number of EFCVs tested for TS SR 3.6.1.3.8 from ''each'' to a ''representative sample'' in accordance with the SFCP [Surveillance Frequency Control Program]. There are no physical plant modifications associated with this change. Industry and LSCS operating experience demonstrate a high reliability of these valves. Neither EFCVs nor their failures are capable of initiating previously evaluated accidents; therefore, there can be no increase in the probability of occurrence of an accident regarding this proposed change.

The LSCS Updated Final Safety Analysis Report (UFSAR) demonstrates, consistent with BWROG [Boiling Water Reactor Owners Group] topical report NEDO–32977–A, that the failure of an EFCV has very low

consequences. The LSCS UFSAR evaluates a circumferential rupture of an instrument line that is connected to the primary coolant system. The evaluation credits the 0.25-inch diameter flow-restricting orifice installed in the line with limiting flow following the instrumentation line break and does not credit the EFCV with actuating to limit leakage. The dose consequences of the instrument line break are determined using the calculated mass of coolant released over approximately a five-hour period. The reactor was assumed to be operating at design power conditions prior to the break. The Standby Gas Treatment System (SGTS) and secondary containment are not impaired by the event. The evaluation concludes that the consequences of the event are well within 10 CFR 100 limits. Thus, the failure of an EFCV, though not expected as a result of the proposed change, does not affect the dose consequences of an instrument line break.

Based on the above, it is concluded that the proposed change to the EFCV surveillance requirement does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change allows a reduced number of EFCVs to be tested in accordance with the SFCP [Surveillance Frequency Control Program]. The proposed change would revise SR 3.6.1.3.8 to verify that a ''representative sample'' (*i.e.,* approximately 20 percent) of reactor instrumentation line EFCVs are tested, in accordance with the SFCP, such that each EFCV will be tested at least once every 10 years (nominal). No other changes in the requirements are being proposed. Industry and LSCS-specific operating experience demonstrates the high degree of reliability of the EFCVs and the low consequences of an EFCV failure. The potential failure of an EFCV to isolate by the proposed reduction in test frequency is bounded by the previous evaluation of an instrument line rupture. This change will not alter the operation or process variables, structures, systems, or components as described in the safety analysis. Thus, a new or different kind of accident will not be created from implementation of the proposed change.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve a significant reduction in the margin of safety. The LSCS UFSAR evaluates a circumferential rupture of an instrument line that is connected to the primary coolant system. The evaluation credits the 0.25-inch diameter flow-restricting orifice installed in the line with limiting flow following the instrumentation line break and does not credit the EFCV with actuating to limit leakage. The dose consequences of the instrument line break are determined using the calculated mass of coolant released over approximately a five-hour period. The reactor was assumed to be operating at design power conditions prior to the break. The SGTS [Standby Gas Treatment System] and secondary containment are not impaired by the event. The evaluation concludes that the consequences of the event are well within 10 CFR 100 limits. Thus, the failure of an EFCV, though not expected as a result of the proposed change, does not affect the dose consequences of an instrument line break.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Exelon Generation Company, LLC, (EGC) Docket Nos. 50–373 and 50–374, LaSalle County Station (LSCS), Units 1 and 2, LaSalle County, Illinois

Date of amendment request: February 27, 2018. A publicly-available version is in ADAMS under Accession No. ML18058A257.

Description of amendment request: The proposed amendments would revise LSCS Technical Specifications (TS) 3.4, Reactor Coolant System (RCS), Section 3.4.4, ''Safety/Relief Valves (S/RVs).''

Specifically, EGC proposes a new safety function lift setpoint lower tolerance for the S/RVs as delineated in Surveillance Requirement 3.4.4.1. The proposed change will revise the lower setpoint tolerances from −3 percent (%) to −5%.

This change is limited to the lower tolerances and does not affect the upper tolerances; therefore, the upper tolerance will remain at +3% of the safety function lift setpoint. In addition, this change only applies to the as-found tolerance and not to the as-left tolerance, which will remain unchanged at ±1% of the safety lift setpoint. The as-found tolerances are used for determining operability and to increase sample sizes for S/RV testing should the tolerance be exceeded. There will be no revision to the actual setpoints of the valves installed in the plant due to this change.

This proposed change will preclude the submittal of previously-reportable licensee event reports (LERs) to the NRC due to setpoint drift in the low (conservative) direction.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This change has no influence on the probability or consequences of any accident previously evaluated. The lower setpoint tolerance change does not affect the operation of the valves and it does not change the as-left setpoint tolerance. The change only affects the lower tolerance for valve opening and does not change the upper tolerance, which is the limit that protects from overpressurization.

The proposed amendments do not involve physical changes to the valves, nor do they change the safety function of the valves. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components.

The proposed amendments do not change any other behavior or operation of any safety/relief valves (S/RVs), and, therefore, has no significant impact on reactor operation. They also have no significant impact on response to any perturbation of reactor operation including transients and accidents previously analyzed in the Updated Final Safety Analysis Report (UFSAR).

Based on the above, it is concluded that the proposed change to the S/RV surveillance requirement does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the S/RV safety lower setpoint tolerance from −3% to −5% only affects the criteria to determine when an as-found S/RV test is considered to be acceptable. This change does not affect the criteria for the upper setpoint tolerance.

The proposed lower setpoint tolerance change does not adversely affect the operation of any safety-related components or equipment. The proposed amendments do not involve physical changes to the S/RVs, nor do they change the safety function of the S/RVs. The proposed amendments do not require any physical change or alteration of any existing plant equipment. No new or different equipment is being installed, and installed equipment is not being operated in a new or different manner. There is no alteration to the parameters within which the plant is normally operated. This change does not alter the manner in which equipment operation is initiated, nor will the functional demands on credited equipment be changed. No alterations in the procedures that ensure

the plant remains within analyzed limits are being proposed, and no changes are being made to the procedures relied upon to respond to an off-normal event as described in the UFSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed amendments involve a significant reduction in a margin of safety?

Response: No.

The proposed lower setpoint tolerance change only affects the criteria to determine when an as-found S/RV test is considered to be acceptable. This change does not affect the criteria for the S/RV setpoint upper setpoint tolerance. The TS setpoints for the S/RVs are not changed. The as-left setpoint tolerances are not changed by this proposed change and remain at ±1% of the safety lift setpoint.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation.

Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–010, 50–237, and 50–249, Dresden Nuclear Power Station, Units 1, 2, and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: January 31, 2018. A publicly-available version is in ADAMS under Package Accession No. ML18053A159.

Description of amendment request: The amendments would revise the emergency response organization (ERO) positions identified in the emergency plan for each site.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for each site, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the [site] Emergency Plan do not increase the probability or consequences of an accident. The proposed changes do not impact the function of plant Structures, Systems, or Components (SSCs). The proposed changes do not affect accident initiators or accident precursors, nor do the changes alter design assumptions. The proposed changes do not alter or prevent the ability of the onsite ERO to perform their intended functions to mitigate the consequences of an accident or event. The proposed changes remove ERO positions no longer credited or considered necessary in support of Emergency Plan implementation.

Therefore, the proposed changes to the [site] Emergency Plan do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on the design, function, or operation of any plant SSCs. The proposed changes do not affect plant equipment or accident analyses. The proposed changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed changes do not introduce failure modes that could result in a new accident, and the proposed changes do not alter assumptions made in the safety analysis. The proposed changes remove ERO positions no longer credited or considered necessary in support of Emergency Plan implementation.

Therefore, the proposed changes to the [site] Emergency Plan do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety are unaffected by the proposed changes to the ERO staffing.

The proposed changes are associated with the [site] Emergency Plan staffing and do not impact operation of the plant or its response to transients or accidents. The proposed changes do not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Safety analysis acceptance criteria are not affected by these proposed changes. The proposed changes to the Emergency Plan will continue to provide the necessary onsite ERO response staff.

Therefore, the proposed changes to the [site] Emergency Plan do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis for each site and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Florida Power & Light Company, Docket Nos. 50–250 and 251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendment: June 28, 2017, as supplemented by letter dated February 28, 2018. Publicly-available versions are in ADAMS under Accession Nos. ML17180A447 and ML18075A023, respectively.

Description of amendment request: The amendments would modify the Technical Specifications (TSs) by

relocating to licensee-controlled documents select acceptance criteria specified in TS surveillance requirements (SRs) credited for satisfying Inservice Testing (IST) Program and Inservice Inspection Program requirements; deleting the SRs for the American Society of Mechanical Engineers Code Class 1, 2, and 3 components; replacing references to the Surveillance Frequency Control Program (SFCP) with reference to the Turkey Point IST Program where appropriate; establishing a Reactor Coolant Pump (RCP) Flywheel Inspection Program; and related editorial changes. Additionally, the amendments would delete a redundant SR for Accumulator check valve testing and add a footnote to the SR for Pressure Isolation Valve (PIV) testing.

The license amendment request was originally noticed in the **Federal Register** on August 29, 2017 (82 FR 41069). The notice is being reissued in its entirety to include the revised scope, description of the amendment request, and proposed no significant hazards consideration determination.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes provide assurance that inservice testing will be performed in the manner and within the timeframes established by 10 CFR 50.55(a). The deletion of SR 4.0.5 and the deletion of IST acceptance criteria from SR 4.5.2.c and SR 4.6.2.1.b neither affect the conduct nor the periodicity of the inservice testing. The addition of references to the IST Program in SR(s) where applicable and the deletion of references to the SFCP in SR testing credited by the IST Program are administrative in nature and can neither initiate nor affect the outcome of any accident previously evaluated. The deletion of SR 4.0.5 and the relocation of the RCP flywheel inspection requirements within the TS are administrative changes and cannot affect the likelihood or the outcome of accident previously evaluated. Deletion of the SR 4.4.6.2.2.c requirement regarding returning PIV(s) to service following maintenance, repair or replacement, deletion of a SR 4.5.1.1.d footnote previously applicable during Unit 3 Cycle 26, and related editorial changes are administrative changes and cannot affect the likelihood or the outcome of any accident previously evaluated. In addition, deletion of a redundant Accumulator check valve SR 4.5.1.1.d, and the addition of a footnote to TS SR 4.4.6.2.2.d to avoid PIV repetitive loop testing do not affect the likelihood or the outcome of any accident previously evaluated.

Therefore, facility operation in accordance with the proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The deletion of IST acceptance criteria from the TS does not affect the manner in which any SSC [structure, system, or component] is maintained or operated and does not introduce new SSCs or new methods for maintaining existing plant SSCs. Inservice testing will continue in the manner and periodicity specified in the IST program such that no new or different kind of accident can result. The addition of references to the IST Program in SR(s) where applicable and the deletion of references to the SFCP in SR testing credited by the IST Program are administrative changes and cannot introduce new or different kinds of accidents. The deletion of SR 4.0.5 and the relocation of the RCP flywheel inspection requirements within the TS are administrative changes and cannot be an initiator of a new or different kind of accident. Deletion of the SR 4.4.6.2.2.c requirement regarding returning PIV(s) to service following maintenance, repair or replacement, deletion of a SR 4.5.1.1.d footnote previously applicable during Unit 3 Cycle 26, and the other editorial changes are administrative changes and cannot introduce new or different kinds of accidents. In addition, deletion of a redundant Accumulator check valve SR 4.5.1.1.d, and the addition of a footnote to TS SR 4.4.6.2.2.d to avoid PIV repetitive loop testing do not introduce new or different kinds of accidents.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve changes to any safety analyses assumptions, safety limits, or limiting safety system settings and do not adversely impact plant operating margins or the reliability of equipment credited in safety analyses. The proposed changes provides assurance that inservice inspection and inservice testing will be performed in the manner and within the timeframes established by 10 CFR 50.55(a). The deletion of SR 4.0.5 and the relocation of the RCP flywheel inspection requirements within the TS are administrative changes with no impact on the margin of safety currently described the Updated Final Safety Analysis Report. Deletion of the SR 4.4.6.2.2.c requirement regarding returning PIV(s) to service following maintenance, repair or replacement, deletion of a SR 4.5.1.1.d footnote previously applicable during Unit 3 Cycle 26, and the other editorial changes are administrative changes with no impact on nuclear safety. In addition, deletion of a redundant Accumulator check valve SR 4.5.1.1.d, and the addition of a footnote to TS SR 4.4.6.2.2.d to avoid PIV repetitive loop testing do not affect any safety analyses assumptions, safety limits, or limiting safety system settings.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Debbie Hendel, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Acting Branch Chief: Brian W. Tindell.

Tennessee Valley Authority, Docket No. 50–259, Browns Ferry Nuclear Plant (BFN), Unit 1, Limestone County, Alabama

Date of amendment request: March 16, 2018. A publicly-available version is in ADAMS under Accession No. ML18080A171.

Description of amendment request: The amendment would revise License Condition 2.C(18)(a)3 for Unit 1 that requires the submittal of a revised BFN Unit 1 replacement steam dryer (RSD) analysis utilizing the BFN Unit 3 on-dryer strain gauge based end-to-end bias and uncertainties at extended power conditions ''at least 90 days prior to the start of the BFN Unit 1 EPU [extended power uprate] outage.'' Specifically, the amendment reduces the time from 90 days to 15 days before the BFN Unit 1 EPU outage for the submittal of the revised analysis of the RSD.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The proposed license amendment reduces the length of time, from 90 days to 15 days, prior to the outage by which a revised analysis of the Browns Ferry Nuclear Plant (BFN) Unit 1 replacement steam dryer (RSD), performed using an NRC-approved methodology benchmarked on the BFN Unit 3 RSD, must be submitted to the NRC for

information. There is no required review or approval of the revised analysis needed to satisfy the license condition. The proposed change is an administrative change to the period before the outage and does not impact any system, structure or component in such a way as to affect the probability or consequences of an accident previously evaluated. The proposed amendment is purely administrative and has no technical or safety aspects. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed license amendment reduces the length of time, from 90 days to 15 days, prior to the outage by which a revised analysis of the BFN Unit 1 RSD must be submitted to the NRC for information. The proposed amendment is purely administrative and has no technical or safety aspects. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed license amendment reduces the length of time, from 90 days to 15 days, prior to the outage by which a revised analysis of the BFN Unit 1 RSD must be submitted to the NRC for information. The proposed amendment is purely administrative and has no technical or safety aspects. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Acting Branch Chief: Brian W. Tindell.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation, and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Exelon Generation Company, LLC and Exelon FitzPatrick, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: July 31, 2017.

Brief description of amendment: The amendment revised the license to authorize the description of the emergency response organization requalification training frequency defined in the Emergency Plan to be changed from ''annually'' to ''once per calendar year not to exceed 18 months between training sessions.''

Date of issuance: March 26, 2018.

Effective date: As of the date of its issuance and shall be implemented within 90 days.

Amendment No.: 318. A publicly-available version is in ADAMS under Accession No. ML17289A175; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the Renewed Facility Operating License and Emergency Plan.

Date of initial notice in ***Federal Register:*** September 26, 2017 (82 FR 44854).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 2018.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: May 1, 2017, as supplemented by letters dated November 15 and December 20, 2017.

Brief description of amendment: The amendment replaced existing technical specification requirements related to ''operations with a potential for draining the reactor vessel'' with new requirements on reactor pressure vessel water inventory control to protect Safety Limit 2.1.1.3. Safety Limit 2.1.1.3 requires reactor pressure vessel water level to be greater than the top of active irradiated fuel. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–542, Revision 2, ''Reactor Pressure Vessel Water Inventory Control.''

Date of issuance: March 22, 2018.

Effective date: As of the date of issuance and shall be implemented prior to entering Mode 4 during the next refueling outage, C1R18, currently planned for April 2018.

Amendment No.: 216. A publicly-available version is in ADAMS under Accession No. ML18043A505; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–62: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 5, 2017 (82 FR 31096). The supplement letters dated November 15, 2017, and December 20, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 2018.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: November 3, 2017.

Brief description of amendment: The amendment changed the safety limit

minimum critical power ratio numeric values for Operating Cycle 17. Specifically, the amendment increased the numeric values of the safety limit minimum critical power ratio for Nine Mile Point Nuclear Station, Unit 2, from ≥1.15 to ≥1.17 for two recirculation loop operation, and from ≥1.15 to ≥1.17 for single recirculation loop operation.

Date of issuance: March 16, 2018.

Effective date: As of the date of issuance and shall be implemented prior to startup from the next refueling outage.

Amendment No.: 167. A publicly-available version is in ADAMS under Accession No. ML18060A016; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–69: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** February 6, 2018 (83 FR 5280).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 16, 2018.

No significant hazards consideration comments received: No.

Florida Power & Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: January 31, 2018.

Brief description of amendments: The amendments revised the Emergency Plan for St. Lucie to adopt the fire-related notification of unusual event requirement of the Nuclear Energy Institute 99–01, Revision 6, Emergency Action Level scheme.

Date of issuance: March 26, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 244 and 195. A publicly-available version is in ADAMS under Accession No. ML18046A712; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: The amendments revised the Renewed Facility Operating Licenses.

Date of initial notice in ***Federal Register:*** February 14, 2018 (83 FR 6621). This notice provided an opportunity to request a hearing by April 15, 2018, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 2018.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: April 9, 2017, as supplemented by letter dated October 4, 2017.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to remove various reporting requirements. Specifically, the amendments removed the requirements to prepare the Startup Report, the Annual Report, and various special reports. In addition, the amendments revised the TSs to remove the completion time for restoring spent fuel pool water level, to address inoperability of one of the two parallel flow paths in the residual heal removal or safely injection headers for the Emergency Core Cooling Systems, and to make other administrative changes, including updating plant staff and responsibilities.

Date of issuance: March 19, 2018.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 279 (Unit No. 3) and 274 (Unit No. 4). A publicly-available version is in ADAMS under Accession No. ML18019A078; documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register:*** June 19, 2017 (82 FR 27889). The supplemental letter dated October 4, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in an SE dated March 19, 2018.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: August 31, 2017.

Description of amendment: The amendments authorized changes to the VEGP Units 3 and 4 Combined Operating License (COL) page 7 and COL Appendix A, Technical Specifications, to make necessary changes so that there will be adequate detection of reactor coolant system and main steam line leakage at all times and that the associated limits account for instrumentation sensitivities not accounted for in the current VEGP Technical Specification 3.4.9.

Date of issuance: March 12, 2018.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 115 (Unit 3) and 114 (Unit 4). Publicly-available versions are in ADAMS Package Accession No. ML18036A782, which includes the Safety Evaluation that references documents related to these amendments.

Facility Combined License Nos. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register:*** October 10, 2017 (82 FR 47032).

The Commission's related evaluation of the amendment is contained in the Safety Evaluation dated March 12, 2018.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 28th day of March 2018.

For the Nuclear Regulatory Commission.

Tara Inverso,

Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–06668 Filed 4–9–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10; NRC–2018–0057]

Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant; Independent Spent Fuel Storage Installation; Correct Inspection Intervals Acceptance Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) reconciled an error in the Northern States Power Company—Minnesota (NSPM) Renewed License No. SNM–2506. Under this license, NSPM is authorized to receive,

possess, store, and transfer spent nuclear fuel and associated radioactive materials at the Prairie Island Independent Spent Fuel Storage Installation.

DATES: April 10, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0057 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0057. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0262; email: *John-Chau.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: After receiving Renewed License No. SNM–2506, the NSPM staff began to review it and prepare procedures to implement new requirements. NSPM submitted an email on February 9, 2016 (ADAMS Accession No. ML17324B332), requesting the NRC to, among other things, address an apparent error in License Condition 22(a) of Renewed License No. SNM–2506 so that NSPM could establish procedures containing the correct inspection intervals acceptance criteria for Renewed License No. SNM–2506. License Condition 22(a) set inspection intervals to be ''not less than'' those in the American Concrete Institute (ACI) Code; however, NRC-issued documents demonstrated the NRC had intended the intervals ''not to exceed'' those in the ACI Code.

As a result of its review, the NRC staff determined that License Condition 22(a) should read ''not to exceed'' instead of ''not less than'' and has amended the license to correct this error. When the NRC staff evaluated visual inspection intervals in its Safety Evaluation Report (SER) dated December 2015 (ADAMS Accession No. ML15336A230) for Renewed License No. SNM–2506, Section 3.5.1.3 of the SER clearly articulated the staff's expectation that accessible areas of the concrete pads would be visually inspected at intervals ''not to exceed'' 5 years. Further, the SER states the staff determined that the specific inspection intervals and areas of inspection coverage in the Aging Management Program (AMP) for concrete pads are appropriate based upon the technical references pertinent to age-related degradation of concrete in similar environments, including American Concrete Institute guides (ACI) 349.3R–02 (ACI, 2002), ACI 201.1R–08 (ACI, 2008), American National Standards Institute/American Society of Civil Engineers guidelines (ANSI/ASCE) 11–99 (ASCE, 2000), and reactor renewal guidance provided in NRC NUREG–1801 (NRC, 2010b). The ''not less than'' language included in error is inconsistent with the NRC staff's SER and has the unintended consequence of preventing NSPM from conducting more frequent inspections.

Accordingly, based on the staff's findings, the NRC made the necessary change and issued Amendment No. 10 to License No. SNM–2506 to correct License Condition 22(a). Amendment No. 10 was effective as of its date of issuance. The NRC staff's findings are documented in a SER dated March 6, 2018 (ADAMS Accession No. ML18057A284), which determined that the amendment complies with the Atomic Energy Act of 1954, as amended, and NRC regulations. The issuance of Amendment No. 10 satisfies the criteria specified in § 51.22(c)(11) of title 10 of the *Code of Federal Regulations* (10 CFR) for a categorical exclusion. Therefore, the preparation of an environmental assessment or an environmental impact statement is not required.

In accordance with 10 CFR 72.46(b)(2), the NRC has determined that Amendment No. 10 does not present a genuine issue as to whether the public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Dated at Rockville, Maryland, this 4th day of April, 2018.

For the Nuclear Regulatory Commission.

John McKirgan,

Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–07304 Filed 4–9–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0209]

Information Collection: General Domestic Licenses for Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''General Domestic Licenses for Byproduct Material.''

DATES: Submit comments by June 11, 2018. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0209. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2–F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0209 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0209.

NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The supporting statement is available in ADAMS under Accession No. ML18003A570.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov*.

B. Submitting Comments

Please include Docket ID NRC–2017–0209 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comments submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 31, ''General Domestic Licenses for Byproduct Material.''

2. *OMB approval number:* 3150–0016.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* N/A.

5. *How often the collection is required or requested:* Reports are submitted as events occur. General license registration requests may be submitted at any time. Changes to the information on the registration may be submitted as they occur.

6. *Who will be required or asked to respond:* Persons receiving, possessing, using, or transferring devices containing byproduct material.

7. *The estimated number of annual responses:* 140,281 (10,681 responses + 129,600 recordkeepers).

8. *The estimated number of annual respondents:* 10,681 (993 NRC licensee respondents + 9,688 Agreement State respondents).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 36,638 hours (4,926 hours for NRC licensees + 31,712 hours for Agreement State licensees).

10. *Abstract:* Part 31 of title 10 of the *Code of Federal Regulations* (10 CFR) establishes general licenses for the possession and use of byproduct material in certain devices. General licensees are required to keep testing records and submit event reports identified in 10 CFR part 31, which assist the NRC in determining, with reasonable assurance, that devices are operated safely and without radiological hazard to users or the public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 5th day of April, 2018.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07259 Filed 4–9–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0050]

Information Collection: 10 CFR Part 140, Financial Protection Requirements and Indemnity Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information.

DATES: Submit comments by June 11, 2018. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0050. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennier.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David C. Cullison, Office of the Chief Information

Officer, Mail Stop: T–2–F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0050 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0050.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The supporting statement and burden table are available in ADAMS under Package Accession No. ML18029A017.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov*.

B. Submitting Comments

Please include Docket ID NRC–2018–0050 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted in *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 140, Financial Protection Requirements and Indemnity Agreements.

2. *OMB approval number:* 3150–0039.

3. *Type of submission:* Renewal.

4. *The form number, if applicable:* N/A.

5. *How often the collection is required or requested:* On occasion, as needed for applicants and licensees to meet their responsibilities called for in Sections 170 and 193 of the Atomic Energy Act of 1954.

6. *Who will be required or asked to respond:* Each applicant for or holder of a license issued under parts 50 or 54 of title 10 of the *Code of Federal Regulations* (10 CFR) to operate a nuclear reactor, or the applicant for or holder of a combined license issued under parts 52 or 54 of 10 CFR, as well as licensees authorized to possess and use plutonium in a plutonium processing and fuel fabrication plant. In addition, licensees authorized to construct and operate a uranium enrichment facility in accordance with parts 40 and 70 of 10 CFR.

7. *The estimated number of annual responses:* 102.

8. *The estimated number of annual respondents:* 101.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 796.

10. *Abstract:* 10 CFR part 140 specifies the information to be submitted by licensees that enables the NRC to assess (a) financial protection required by licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to Section 170 of the Atomic Energy Act of 1954, as amended, and (b) the liability insurance required of plutonium processing and fuel fabrication plants, as well as uranium enrichment facility licensees pursuant to Section 193 of the Atomic Energy Act of 1954, as amended.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 5th day of April, 2018.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2018–07258 Filed 4–9–18; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Claim for Unpaid Compensation for Deceased Civilian

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Merit System Accountability and Compliance, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a new information collection request (ICR) 3206–0234, Standard Form 1153, Claim for Unpaid Compensation for Deceased Civilian Employee. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-

Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on January/22/2018 at Volume # 83 3034–3035 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until May 10, 2018. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

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.

Standard Form 1153, Claim for Unpaid Compensation for Deceased Civilian Employee, is used to collect information from individuals who have been designated as beneficiaries of the unpaid compensation of a deceased Federal employee or who believe that their relationship to the deceased entitles them to receive the unpaid compensation of the deceased Federal employee. OPM needs this information in order to adjudicate the claim and properly assign a deceased Federal employee's unpaid compensation to the appropriate individual(s).

Analysis

Agency: Merit System Accountability and Compliance, Office of Personnel Management.

Title: Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee.

OMB Number: 3206–0234.

Affected Public: Federal Employees and Retirees.

Number of Respondents: 3,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 750 hours.

U.S. Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–07346 Filed 4–9–18; 8:45 am]

BILLING CODE 6325–58–P

POSTAL REGULATORY COMMISSION

[Docket No. IM2018–1; Order No. 4567]

Section 407 Proceeding

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a proceeding to consider whether proposals of the 26th Congress of the Universal Postal Union are consistent with the modern rate regulation standards. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 3, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 2016, at the Universal Postal Union (UPU) Congress in Istanbul, Turkey, UPU members decided to hold an Extraordinary UPU Congress midway between the 2016 Congress and the 2020 UPU Congress.[1] The Extraordinary UPU Congress will be held September 3–7, 2018, in Ethiopia. On March 27, 2018, the Secretary of State requested the Commission's views on whether certain proposals for the Extraordinary UPU Congress are consistent with the standards and criteria for modern rate regulation established by the Commission under 39 U.S.C. 3622.[2] Pursuant to 39 U.S.C. 407(c)(1) and 39 CFR part 3017, the Commission establishes Docket No. IM2018–1 for the purpose of developing its views on whether certain proposals for the Extraordinary UPU Congress are consistent with the standards and criteria for modern rate regulation established by the Commission under 39 U.S.C. 3622.

II. Initial Commission Action

Establishment of docket. Part 3017 of title 39 of the Code of Federal Regulations codifies procedures related to the development of the Commission's section 407 views.[3] Pursuant to rule 3017.3(a), the Commission establishes this docket to ''solicit comments on the general principles that should guide the Commission's development of views on relevant proposals, in a general way, and on specific relevant proposals, if the Commission is able to make these available.'' 39 CFR 3017.3(a).

Comments. Rule 3017.4(a) provides that the Commission ''shall establish a deadline for comments upon establishment of the docket that is consistent with timely submission of the Commission's views to the Secretary of State.'' 39 CFR 3017.4 (a). The Secretary of State has requested that the Commission submit its views by August 3, 2018. State's Request at 1. To ensure timely submission of the Commission's

[1] Decisions of the 26th Congress other than those amending the Acts (resolutions, decisions, recommendations, formal opinions, etc.) (2017), Resolution C 28/2016 available at *https://documents.upu.int/Bodies/2016/CNG/CNG%20ACTES/MEETING/CNG%20ACTES%202016/Doc%201/EN/cng_actes_d001.pdf.*

[2] *See* Letter from Nerissa J. Cook, Deputy Assistant Secretary, U.S. Department of State, Bureau of International Organization Affairs, on behalf of the Secretary of State, March 27, 2018 (State's Request).

[3] *See* Docket No. RM2015–14, Order Adopting Final Rules on Procedures Related to Commission Views, December 30, 2015 (Order No. 2960). *See also* 81 FR 869 (January 8, 2016). The rules in part 3017 took effect on February 8, 2016.

views to the Department of State, the Commission establishes July 3, 2018, as the deadline for submission of comments on the principles that should guide development of its views, as well as those on the consistency of proposals subject to subchapter I of chapter 36 with the standards and criteria of 39 U.S.C. 3622. Comments are to be submitted in the above captioned docket via the Commission's website at *http://www.prc.gov* unless a request for waiver is approved. For assistance with filing, contact the Commission's docket section at 202–789–6846 or *dockets@prc.gov.*

Public Representative. Section 505 of title 39 requires the designation of an officer of the Commission (public representative) to represent the interests of the general public in all public proceedings. The Commission designates Kenneth E. Richardson as Public Representative in this proceeding.

Availability of documents. Pursuant to rule 3017.3(b), the Commission directs the Secretary of the Commission to arrange for the prompt posting on the Commission's website of the correspondence identified in this Order. The Commission will post other documents in this docket when the Commission determines such other documents are applicable and are able to be made publicly available.

Federal Register *publication.* Rule 3017.3(c) requires publication in the **Federal Register** of the notice establishing a docket authorized under part 3017. 39 CFR 3017.3(c). Pursuant to this rule, the Commission directs the Secretary of the Commission to arrange for prompt publication of this Order in the **Federal Register**.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. IM2018–1 for purposes related to the development of section 407(c)(1) views and invites public comments related to this effort, as described in the body of this Order.

2. Comments are due no later than July 3, 2018.

3. Pursuant to 39 U.S.C. 505, Kenneth E. Richardson is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary is directed to post the correspondence referred to in this Order on the Commission's website, along with other documents that the Commission determines are applicable and are able to be made publicly available.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–07340 Filed 4–9–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82995; File No. SR–CboeBZX–2018–001]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF Under BZX Rule 14.11(f)(4), Trust Issued Receipts

April 5, 2018.

On January 5, 2018, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') 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 to list and trade the shares (''Shares'') of the GraniteShares Bitcoin ETF (''Long Fund'') and the GraniteShares Short Bitcoin ETF (''Short Fund'') (each a ''Fund'' and, collectively, ''Funds'') issued by the GraniteShares ETP Trust (''Trust'') under BZX Rule 14.11(f)(4). The proposed rule change was published for comment in the **Federal Register** on January 18, 2018.[3] On February 22, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal [7]

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(f)(4), which governs the listing and trading of Trust Issued Receipts on the Exchange.[8] Each Fund will be a series of the Trust, and the Trust and the Funds will be managed and controlled by GraniteShares Advisors LLC (''Sponsor''). Bank of New York Mellon will serve as administrator, custodian, and transfer agent for the Funds. Foreside Fund Services, LLC will serve as the distributor of the Shares (''Distributor''). The Trust will offer Shares of the Funds for sale through the Distributor in ''Creation Units'' in transactions with ''Authorized Participants'' who have entered into agreements with the Distributor.[9]

According to the Exchange, the Long Fund's investment objective will be to seek results (before fees and expenses) that, both for a single day and over time, correspond to the performance of lead month bitcoin futures contracts listed and traded on the Cboe Futures Exchange, Inc. (''Benchmark Futures Contract''). Conversely, the Short Fund's investment objective will be to seek results (before fees and expenses) that, on a daily basis, correspond to the inverse (−1x) of the daily performance of the Benchmark Futures Contracts for a single day. Each Fund generally intends to invest substantially all of its assets in the Benchmark Futures Contracts and cash and cash equivalents (which would be used to collateralize the Benchmark Futures Contracts), but may invest in other U.S. exchange listed bitcoin futures contracts, as available (together with Benchmark Futures

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82484 (Jan. 11, 2018), 83 FR 2704 (Jan. 18, 2018) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 82759 (Feb. 22, 2018), 83 FR 8719 (Feb. 28, 2018). The Commission designated April 18, 2018 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The Commission notes that additional information regarding the Trust, the Shares, and the Funds, including investment strategies, calculation of net asset value (''NAV'') and indicative fund value, creation and redemption procedures, and additional background information about bitcoin, the bitcoin network, and bitcoin futures contracts, among other things, can be found in the Notice (*see supra* note 3) and the registration statement filed with the Commission on Form S–1 (File No. 333–222109) under the Securities Act of 1933, as applicable.

[8] Rule 14.11(f)(4) applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Rule 14.11(f)(4)(A)(iv), means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[9] *See* Notice, *supra* note 3, at 2707.

Contracts, collectively, ''Bitcoin Futures Contracts'').[10]

Further, the Exchange states that, in the event that position, price, or accountability limits are reached with respect to Bitcoin Futures Contracts, each Fund may invest in U.S. listed swaps on bitcoin or the Benchmark Futures Contracts (''Listed Bitcoin Swaps''). In the event that position, price, or accountability limits are reached with respect to Listed Bitcoin Swaps, each Fund may invest in over-the-counter swaps on bitcoin or the Benchmark Futures Contracts (''OTC Bitcoin Swaps,'' and together with Listed Bitcoin Swaps, collectively, ''Bitcoin Swaps'').[11]

II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2018–001 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [12] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[13] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [14]

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the 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.[15]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 1, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by May 15, 2018. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[16] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following:

1. In its proposal, the Exchange states that each Fund, in the event that position, price, or accountability limits are reached with respect to Bitcoin Futures Contracts, may also invest in Listed Bitcoin Swaps. What are commenters' views on the current availability of Listed Bitcoin Swaps for trading? What are commenters' views on the ability of the Funds to invest in Listed Bitcoin Swaps in the event that position, price, or accountability limits are reached with respect to Bitcoin Futures Contracts?

2. In its proposal, the Exchange states that each Fund, in the event that position, price, or accountability limits are reached with respect to Listed Bitcoin Swaps, may also invest in OTC Bitcoin Swaps. What are commenters' views on the current availability of OTC Bitcoin Swaps for trading? What are commenters' views on the ability of the Funds to invest in OTC Bitcoin Swaps in the event that position, price, or accountability limits are reached with respect to Listed Bitcoin Swaps?

3. What are commenters' views on whether the Funds would have the information necessary to adequately value, including fair value, the Bitcoin Futures Contracts and the Bitcoin Swaps when determining an appropriate end-of-day NAV for the Funds, taking into account any volatility, fragmentation, or general lack of regulation of the underlying bitcoin markets?

4. What are commenters' views on the potential impact of manipulation in the underlying bitcoin markets on the Funds' NAV? What are commenters' views on the potential effect of such manipulation on the valuation of a Fund's Bitcoin Futures Contracts? What are commenters' views on the potential effect of such manipulation on the pricing of a Fund's Bitcoin Swaps?

5. What are commenters' views on how the Funds' valuation policies would address the potential for the bitcoin blockchain to diverge into different paths (*i.e.,* a ''fork'')?

6. What are commenters' views on the price differentials and trading volumes across bitcoin trading platforms (including during periods of market stress) and on the extent to which these differing prices may affect the trading of the Bitcoin Futures Contracts and, accordingly, trading in the Shares of the Funds?

7. What are commenters' views on how the substantial margin requirements for Bitcoin Futures Contracts, and the nature of liquidity and volatility in the market for Bitcoin Futures Contracts, might affect the Trust's ability to meet redemption orders? What are commenters' views on whether and how the margin requirements for Bitcoin Futures Contracts, and the nature of liquidity and volatility in the market for Bitcoin Futures Contracts, might affect a Fund's use of available cash to achieve its investment strategy?

8. What are commenters' views on the possibility that the Funds—along with other exchange-traded products with similar investment objectives—could acquire a substantial portion of the market for Bitcoin Futures Contracts or the Bitcoin Swaps? What are commenters' views on whether such a concentration of holdings could affect the Funds' portfolio management, the liquidity of the Funds' respective portfolios, or the pricing of the Bitcoin Futures Contracts or the Bitcoin Swaps? What are commenters' views on the Exchange's representation that it expects significant liquidity to exist in

[10] *See* Notice, *supra* note 3, at 2705–2706.

[11] *See id.* at 2706.

[12] 15 U.S.C. 78s(b)(2)(B).

[13] *Id.*

[14] 15 U.S.C. 78f(b)(5).

[15] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 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 Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[16] *See supra* note 3.

the market for Bitcoin Futures Contracts?

9. What are commenters' views on possible factors that might impair the ability of the arbitrage mechanism to keep the trading price of the Shares tied to the NAV of each Fund? With respect to the market for Bitcoin Futures Contracts, what are commenters' views on the potential impact on the arbitrage mechanism of the price volatility and the potential for trading halts? What are commenters' views on whether or how these potential impairments of the arbitrage mechanism may affect the Funds' ability to ensure adequate participation by Authorized Participants? What are commenters' views on the potential effects on investors if the arbitrage mechanism is impaired?

10. What are commenters' views on the risks of price manipulation and fraud in the underlying bitcoin trading platforms and how these risks might affect the Bitcoin Futures Contracts market or the Bitcoin Swaps? What are commenters' views on how these risks might affect trading in the Shares of the Funds?

11. What are commenters' views on how an investor may evaluate the price of the Shares in light of the risk of potential price manipulation and fraud in the underlying bitcoin trading platforms and in light of the potentially significant spread between the price of the Bitcoin Futures Contracts or the Bitcoin Swaps and the spot price of bitcoin?

12. What are commenters' views on whether the two bitcoin futures exchanges represent a significant market, *i.e.,* a market of significant size?

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 No. SR–CboeBZX–2018–001 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 No. SR–CboeBZX–2018–001. The 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 No. SR–CboeBZX–2018–001 and should be submitted by May 1, 2018. Rebuttal comments should be submitted by May 15, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07263 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82991; File No. SR–CBOE–2018–026]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Market Data Fees

April 4, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 28, 2018, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Cboe Data Services (''CDS'') fee schedule to establish an optional Enhanced Controlled Data Distribution Fee to further the distribution of the BBO,[5] Book Depth,[6] and Complex Order Book[7] (''COB'') data feeds (collectively, ''Cboe Options Data Feeds'').[8]

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The BBO Data Feed is a real-time data feed that includes the following information: (i) Outstanding quotes and standing orders at the best available price level on each side of the market; (ii) executed trades time, size, and price; (iii) totals of customer versus non-customer contracts at the best bid and offer (''BBO''); (iv) all-or-none contingency orders priced better than or equal to the BBO; (v) expected opening price and expected opening size; (vi) end-of-day summaries by product, including open, high, low, and closing price during the trading session; (vi) recap messages any time there is a change in the open, high, low or last sale price of a listed option; (vii) COB information; and (viii) product IDs and codes for all listed options contracts. The quote and last sale data contained in the BBO data feed is identical to the data sent to the Options Price Reporting Authority (''OPRA'') for redistribution to the public.

[6] The Book Depth Data Feed is a real-time, low latency data feed that includes all data contained in the BBO Data Feed described above plus outstanding quotes and standing orders up to the first four price levels on each side of the market, with aggregate size.

[7] The COB Data Feed is a real-time data feed that includes data regarding the Exchange's Complex Order Book and related complex order information. The COB Data Feed contains the following information for all Exchange-traded complex order strategies (multi-leg strategies such as spreads, straddles and buy-writes): (i) Outstanding quotes and standing orders on each side of the market with aggregate size, (ii) data with respect to executed trades (''last sale data''), and (iii) totals of customer versus non-customer contracts.

[8] The ECDD Fee is based on The Nasdaq Stock Market LLC's (''Nasdaq'') Enhanced Display Solution fee. *See* Nasdaq Rule 7026(a). *See also* Securities Exchange Act Release Nos. 66165 (January 17, 2012), 77 FR 3313 (January 23, 2012) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish an Enhanced Display Distributor Fee); *and* 73807 (December 10, 2014), 79 FR 74784 (December 16, 2014) (SR–Nasdaq–2014–117).

Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Cboe proposed to amend the CDS fee schedule to establish an optional ECDD Fee to further the distribution of the Cboe Options Data Feeds. The new data distribution model (an ''Enhanced Controlled Data Distribution'' or ''ECDD'') offers a delivery method available to firms seeking simplified market data administration and may be offered by Customers to external subscribers that are using the Cboe Options Data Feeds internally.

The proposed optional ECDD Fee is intended to provide a new pricing option for Customers [9] who provide a controlled display or entitlement product along with an Application Programming Interface (''API'') or similar solution to subscribers. Non-display use is not permitted under the ECDD Fee structure. To ensure compliance with this new fee, Customers must monitor for any non-display or excessive use suggesting that the subscriber is not in compliance. The Customer is liable for any unauthorized use by the ECDD subscribers under the ECDD. This proposed optional new fee only applies to Customer who distribute Cboe Options Data Feeds externally and who opt for the ECDD option.

This new pricing and administrative option is in response to industry demand, as well as due to changes in the technology to distribute market data. By providing this new fee option, Customers will have more administrative flexibility in their receipt and distribution of the Cboe Options Data Feeds. Customers opting for the ECDD Fee would still be fee liable for the applicable user fees for Cboe BBO, Book Depth, and COB data feeds, as described in the CDS fee schedule.[10] Cboe proposes to permit Customers to select the ECDD Fee at a minimum rate of $500 per user/per month each for the first 5 users, $200 per user/per month each for the 6th to the 20th user, and $50 per User/per month each for the 21st or more users. The ECDD Fee is independent from the applicable per user fees for each of the individual Cboe Options Data Feeds as described above. However, a single per user fee under the ECDD Fee *would allow access to each of the Cboe Options Data Feeds.* These new ECDD Fees will become fee liable for the billing month of April 2018.

This delivery option assesses a new fee schedule to Customers of the Cboe Options Data Feeds that provide an API or similar solution. Customers may either control the display of the data or offer APIs that power third party software display applications where the Customer controls the entitlement but not the display of data. The Customer must first agree to reformat, redisplay and/or alter the Cboe Options Data Feeds prior to retransmission, but not to affect the integrity of the Cboe Options Data Feeds and not to render it inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. An ECDD is any controlled display product or entitlement containing the Cboe Data Feed where the Customer controls a display of the Cboe Data Feed or offer APIs that power third party software display applications where the Customer controls the entitlement but not the display of data. The user of an ECDD display may use the Cboe Data Feed for the user's own purposes and may not redistribute the information outside of their organization. The user may not redistribute the data internally to other users in the same organization.

In the past, Cboe has considered this type of retransmission to be an uncontrolled display since the Customer does not control the entitlements or the display of the information. Over the last 16 years, Customers have improved the technical delivery and monitoring of data and the ECDD offering responds to an industry need to administer these new types of technical deliveries.

Some Customers believe that an API or other distribution from a display is a better controlled product than a data feed and as such should not be subject to the same rates as a data feed. The offering of a new pricing option for an ECDD would not only result in Cboe offering lower fees for certain existing Customers, but will allow new Customers to deliver ECDD to new clients, thereby increasing transparency of the market.

Accordingly, Cboe is establishing the ECDD Fee for Customers who are seeking simplified market data administration and would like to offer the Cboe Options Data Feeds to users that are using the Cboe Options Data Feeds internally. The Cboe ECDD Fee is optional for firms providing a display product containing the Cboe Options Data Feeds where the Customer controls a display of the Cboe Data Feed or offer APIs that power third party software display applications where the Customer controls the entitlement but not the display of data since these firms can choose to pay the data feed fees. The new Cboe ECDD Fee is designed to allow Cboe Data Feed subscribers to redistribute data via a terminal without paying a higher fee for an attached API. As a result, it does not impact individual usage fees for the Cboe Options Data Feeds or in any way increase the costs of any user of the Cboe Options Data Feeds. For Customers wanting to use this same functionality for other products, they would be able to do so by paying the applicable Cboe Data Feed rates.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all recipients of Exchange data. The Exchange believes the proposed fees are competitive with those charged by other venues and, therefore, reasonable and equitably allocated to recipients.

[9] A ''Customer'' is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (*i.e.,* a Customer or an extranet service provider), whether that data is distributed externally or used internally. The CDS fee schedule for Exchange data is located at *https://www.cboe.org/general-info/pdfframed?content=/publish/mdxfees/cboe-cds-fees-schedule-for-cboe-datafeeds.pdf&section=SEC_MDX_CSM&title=Cboe%20CDS%20Fees%20Schedule.*

[10] Customers redistributing the Cboe Options Data Feeds under the proposed fee change will pay underlying rates applicable to the Cboe Data Feed as set forth in the CDS fee schedule.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

The Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act [13] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[14] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

In addition, the proposed fees would not permit unfair discrimination because all of the Exchange's customers and market data vendors who subscribe to the above data feeds will be subject to the proposed fees. The above data feeds are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation purchase this data or to make this data available. Accordingly, distributors and users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Firms have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Moreover, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

In addition, the fees that are the subject of this rule filing are constrained by competition. As explained below in the Exchange's Statement on Burden on Competition, the existence of alternatives to the above data feeds further ensure that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives. That is, the Exchange competes with other exchanges (and their affiliates) that provide similar market data products. For example, the above data feeds provide investors with alternative market data and competes with similar market data product currently offered by other exchanges. If another exchange (or its affiliate) were to charge less to distribute its similar product than the Exchange charges for the above data feeds, prospective users likely would not subscribe to, or would cease subscribing to either market data product.

The Exchange notes that the Commission is not required to undertake a cost-of-service or rate-making approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically.[15]

Cboe believes that this proposal is in keeping with those principles by promoting increased transparency through the offering of a new pricing option for an ECDD, which would not only result in Cboe offering lower fees for certain existing Customers, but will allow new Customers to deliver ECDDs to new clients, thereby increasing transparency of the market. Additionally, the proposal provides for simplified market data administration and may be offered by Customers to external users that are using the Cboe Options Data Feeds internally. Cboe notes also that this filing proposes to distribute no additional data elements and that the ECDD Fee is optional. Accordingly, Customers and users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Lastly, Cboe notes that the ECDD fee is based on Nasdaq's Enhanced Display Solution fee.[16] The proposed rates are also equitable and reasonable because they are lower than that currently charged by Nasdaq, which charges at a minimum rate of $4,000 per month for up to 399 subscribers, $7,500 per month for up to 400–999 subscribers, and $15,000 per month for 1,000 or more subscribers.[17]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange's ability to price ECDD is constrained by: (i) Competition among exchanges that compete with each other in a variety of dimensions; (ii) the existence of inexpensive real-time consolidated data and market-specific data and free delayed data; and (iii) the inherent contestability of the market for proprietary data.

An exchange's ability to price its proprietary data feed products is constrained by (1) the existence of actual competition for the sale of such data, (2) the joint product nature of exchange platforms, and (3) the existence of alternatives to proprietary data.

The Existence of Actual Competition. The Exchange believes competition provides an effective constraint on the market data fees that the Exchange, through CDS, has the ability and the incentive to charge. The Exchange has a compelling need to attract order flow from market participants in order to maintain its share of trading volume. This compelling need to attract order flow imposes significant pressure on the Exchange to act reasonably in setting its fees for market data, particularly given that the market participants that will pay such fees often will be the same market participants from whom the Exchange must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high data

[13] 15 U.S.C. 78k–1.

[14] 17 CFR 242.603.

[15] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's website at *http://www.sec.gov/rules/concept/s72899/buck1.htm. See also* Securities Exchange Act Release No. 73816 (December 11, 2014), 79 FR 75200 (December 17, 2014) (SR–NYSE–2014–64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Access Fee for the NYSE Best Quote and Trades Data Feed, Operative December 1, 2014).

[16] *See supra* note 8.

[17] *See* Nasdaq Rule 7026(a).

fees would risk alienating many of the same customers on whose orders it depends for competitive survival. The Exchange currently competes with fourteen options exchanges (including its affiliate, C2) for order flow.[18]

In addition, in the case of products that are distributed through market data vendors, the market data vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Internet portals, such as Google, impose price discipline by providing only data that they believe will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Similarly, Customers will not offer ECDD unless these products will help them maintain current users or attract new ones. All of these operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of their data products. The more trade executions a platform does, the more valuable its market data products become. The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange.

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products. Thus, because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 15 options self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

The Existence of Alternatives. The Exchange is constrained in pricing ECDD by the availability to market participants of alternatives to purchasing these products. The Exchange must consider the extent to which market participants would choose one or more alternatives instead of purchasing the exchange's data. Other options exchanges can and have produced their enhanced display products, and thus are sources of potential competition for CDS. For example, as noted above, Nasdaq offers an enhanced display product that will compete with ECDD. The large number of SROs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and BD is currently permitted to produce proprietary data products, and many currently do. In addition, the OPRA data feed is a significant competitive alternative to the BBO and last sale data included in the BBO and Book Depth Data Feeds.

The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 [20] 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 will institute proceedings to determine whether the proposed rule

[18] The Commission has previously made a finding that the options industry is subject to significant competitive forces. *See e.g.,* Securities Exchange Act Release No. 59949 (May 20, 2009), 74 FR 25593 (May 28, 2009) (SR–ISE–2009–97) [sic] (order approving ISE's proposal to establish fees for a real-time depth of market data offering).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2018–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2018–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2018–026 and should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07242 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33066; File No. 812–14851]

Angel Oak Strategic Credit Fund and Angel Oak Capital Advisors, LLC

April 5, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares and to impose asset-based service and distribution fees, and early withdrawal charges (''EWCs'').

APPLICANTS: Angel Oak Strategic Credit Fund (the ''Initial Fund'') and Angel Oak Capital Advisors, LLC (the ''Adviser'').

FILING DATES: The application was filed on December 13, 2017 and amended February 9, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 30, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Angel Oak Strategic Credit Fund and Angel Oak Capital Advisors, LLC, One Buckhead Plaza, 3060 Peachtree Road NW, Suite 500, Atlanta, Georgia 30305.

FOR FURTHER INFORMATION CONTACT: Nick Cordell, Senior Counsel, at (202) 551–5496, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a diversified, closed-end management investment company. The Initial Fund's investment objective is total return.

2. The Adviser is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser serves as investment adviser to the Initial Fund.

3. The applicants seek an order to permit the Initial Fund to issue multiple classes of shares, each having its own fee and expense structure, and to impose asset-based distribution and service fees, and EWCs.

4. Applicants request that the order also apply to any continuously-offered registered closed-end management investment company that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

[21] 17 CFR 200.30–3(a)(12).

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent

Continued

5. The Initial Fund currently makes a continuous public offering of its shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund may also offer additional classes of shares in the future, with each class having its own fee and expense structure. Because of the different distribution fees, services and any other class expenses that may be attributable to a class of a Fund's shares, the net income attributable to, and the dividends payable on, each class of shares may differ from each other.

7. Applicants state that, from time to time, Funds may create additional classes of shares, the terms of which may differ from the initial class pursuant to and in compliance with rule 18f–3 under the Act.

8. Applicants state that the Initial Fund has adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5% and not more than 25%) at net asset value on a periodic basis. Such repurchase offers will be conducted pursuant to rule 23c-3 under the Act.[3] Each of the other Funds will likewise adopt a fundamental investment policy in compliance with rule 23c–3 and make periodic repurchase offers to its shareholders, or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act. Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based service and distribution fees for each class of shares will comply with the provisions of FINRA Rule 2341 (''Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

10. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may waive the EWC for certain categories of shareholders or transactions to be established from time to time. Applicants state that each of the Funds will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Funds were open-end investment companies.

12. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as if it were a contingent deferred sales load (''CDSL'').

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act makes it unlawful for a closed-end investment company to issue a senior security that is a stock unless (a) immediately after such issuance it will have an asset coverage of at least 200% and (b) provision is made to prohibit the declaration of any distribution, upon its common stock, or the purchase of any such common stock, unless in every such case such senior security has at the time of the declaration of any such distribution, or at the time of any such purchase, an asset coverage of at least 200% after deducting the amount of such distribution or purchase price, as the case may be. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any

that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to rule 415 under the Securities Act of 1933.

[4] Any reference to the Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits a registered closed-end investment company (an ''interval fund'') to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase. A Fund will not impose a repurchase fee on investors who purchase and tender their shares.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs.

Asset-based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Funds to impose asset-based service and distribution fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based service and distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based service and distribution fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07343 Filed 4–9–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82990; File No. SR–MRX–2018–10]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV of the Exchange's Schedule of Fees

April 4, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2018, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IV of its Schedule of Fees, as described below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Chapter IV of its Schedule of Fees to harmonize it with the rules of Nasdaq BX, Inc. (''BX'').

The amendments eliminate or replace certain obsolete language in the Schedule of Fees. Specifically, the Exchange proposes to amend Chapter IV.A.2, under the heading ''Market Data Connectivity,'' to re-categorize and to update references to the CBOE/Bats/Direct Edge data feeds to reflect their current names. Similarly, the Exchange proposes to delete a $1,000 installation fee that presently applies to the Direct Edge feeds because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. Going forward, a single, one-time $1,000 installation fee will apply to subscribers to any or all of the CBOE data feeds. The Exchange also proposes to correct a typographical error in the name of the TSXV Level 2 Feed. The Exchange notes that this proposal will render this paragraph of Chapter IV.A.2 consistent with BX Rule 7034.

The proposal adds a footnote to the first line of Chapter IV.A, which was mistakenly omitted from the Schedule of Fees, which states that the co-location services described therein are provided by Nasdaq Technology Services LLC.

The Exchange also proposes to correct a typographical error in the numbering of the subsection of Chapter IV entitled ''Exchange Testing Facilities.'' The proposal changes the lettering of this subsection from ''I.'' to ''E.'' It furthermore corrects a typographical error in the asterisked footnote under the ''Market Data Connectivity Heading'' wherein the existing text erroneously states that ''[m]arket data fees are charged independently by Nasdaq ISE and other exchanges'' rather than by ''Nasdaq MRX and other exchanges.''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that its proposal to update Chapter IV.A.2 will serve the interests of the public and investors by ensuring that the Exchange's Rules are accurate and current with respect to the names of the third party data feeds to which it offers connectivity. Furthermore, the Exchange believes that it is in the public interest to correct typographical errors that could otherwise lead to confusion. These proposals will not impact competition or limit access to or availability of the Exchange or its systems. The Exchange notes the proposal is noncontroversial because BX has made the same changes to its rules.

The Exchange's proposal to eliminate the $1,000 installation fee that presently applies to the Direct Edge feeds is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is reasonable because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. The Exchange believes it is equitable, going forward, to charge a single, one-time $1,000 installation fee to subscribers to any or all of the CBOE data feeds, including the BZX Depth, BYX Depth, EDGA Depth, and EDGX Depth feeds. This proposal is not unfairly discriminatory because it will apply to all similarly situated customers of the CBOE data feeds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In this instance, the proposed changes merely replace obsolete text, update references to data feeds, add inadvertently omitted text, and correct typographical errors. The Exchange does not intend for or expect that such changes will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to update its rules without delay to reflect current and accurate information with respect to the third party data feeds to which it offers connectivity and to correct typographical errors. The Commission also notes that BX recently made similar changes to its rules.[11] Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See* Securities Exchange Act Release No. 82628 (February 5, 2018), 83 FR 5818 (February 9, 2018) (SR–BX–2018–006).

[12] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2018–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2018–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2018–10, and should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07241 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82989; File No. SR–ISE–2018–24]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VI of the Exchange's Schedule of Fees

April 4, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2018, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI of the Exchange's Schedule of Fees, as described below. The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Chapter VI.E of its Schedule of Fees to harmonize it with the rules of Nasdaq BX, Inc. (''BX'').

The amendments eliminate or replace certain obsolete language in the Schedule of Fees. Specifically, the Exchange proposes to amend Chapter VI.E.2, under the heading ''Market Data Connectivity,'' to re-categorize and to update references to the CBOE/Bats/Direct Edge data feeds to reflect their current names. Similarly, the Exchange proposes to delete a $1,000 installation fee that presently applies to the Direct Edge feeds because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. Going forward, a single, one-time $1,000 installation fee will apply to subscribers to any or all of the CBOE data feeds. The Exchange notes that this proposal will render this paragraph of Chapter VI.E.2 consistent with BX Rule 7034.

The Exchange also proposes to correct a typographical error in the name of the TSXV Level 2 Feed.

Finally, the proposal adds a footnote to the first line of Chapter VI.E, which was mistakenly omitted from the Schedule of Fees, which states that the co-location services described therein are provided by Nasdaq Technology Services LLC.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that its proposal to update Chapter VI.E.2 will serve the interests of the public and investors by ensuring that the Exchange's Rules are accurate and current with respect to the names of the third party data feeds to which it offers connectivity. Furthermore, the Exchange believes that it is in the public interest to correct typographical errors that could otherwise lead to confusion. These proposals will not impact competition or limit access to or availability of the Exchange or its systems. The Exchange notes the proposal is noncontroversial because BX has made the same changes to its rules.

The Exchange's proposal to eliminate the $1,000 installation fee that presently applies to the Direct Edge feeds is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is reasonable because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. The Exchange believes it is equitable, going forward, to charge a single, one-time $1,000 installation fee to subscribers to any or all of the CBOE data feeds, including the BZX Depth, BYX Depth, EDGA Depth, and EDGX Depth feeds. This proposal is not unfairly discriminatory because it will apply to all similarly situated customers of the CBOE data feeds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In this instance, the proposed changes merely replace obsolete text, update references to data feeds, and add inadvertently omitted text. The Exchange does not intend for or expect that such changes will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to update its rules without delay to reflect current and accurate information with respect to the third party data feeds to which it offers connectivity and to correct typographical errors. The Commission also notes that BX recently made similar changes to its rules.[11] Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See* Securities Exchange Act Release No. 82628 (February 5, 2018), 83 FR 5818 (February 9, 2018) (SR–BX–2018–006).

[12] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE–2018–24 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–ISE–2018–24. 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–ISE–2018–24, and should be submitted on or before May 1, 2018

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07240 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82993; File No. SR–NYSEArca–2018–19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule With Respect to the Options Regulatory Fee

April 4, 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 23, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') by modifying the description of the Options Regulatory Fee (''ORF''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to clarify the description of the ORF.

The Exchange charges an ORF in the amount of $0.0055 per contract side. The proposed rule change does not change the amount of the ORF, but instead modifies the rule text to clarify how the ORF is assessed and collected. Currently, the Exchange describes the ORF as follows:

> The Options Regulatory Fee will be assessed on each OTP Holder or OTP Firm for all options transactions executed or cleared by the OTP Holder or OTP Firm that are cleared by The Options Clearing Corporation (''OCC'') in the customer range regardless of the exchange on which the transaction occurs. The fee is collected indirectly from OTP Holders or OTP Firms through their clearing firms by the OCC on behalf of NYSE Arca. Effective December 1, 2012, an OTP Holder or OTP Firm shall not be assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE Arca. The Exchange may only increase or decrease the Options Regulatory Fee semi-annually, and any such fee change will be effective on the first business day of February or August. The Exchange will notify participants via a Trader Update of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.[4]

The Exchange proposes to modify this description to more accurately reflect how the ORF is imposed. Specifically, the ORF is assessed to each OTP Holder or OTP Firm (referred to herein collectively as ''OTP Holders'') for all options transactions *cleared* (but not necessarily executed) by an OTP Holder through the OCC in the customer range regardless of the exchange on which the transaction occurs. The ORF is only assessed to OTP Holders that act as the clearing firm for the transaction, regardless of whether the executing firm (if different from the clearing firm) is an OTP Holder.[5] Thus, the Exchange proposes to delete the words ''executed or'' from the current description of the ORF, and to make clear that the ORF is assessed ''to each OTP Holder or OTP

[4] *See* Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee, *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[5] The Exchange uses reports from OCC to determine the identity of the clearing firm and compares that to the list of OTP Holders for billing purposes.

Firm'' on transactions ''that are cleared by the OTP Holder or OTP Firm through The Options Clearing Corporation ('OCC')'' and that the ORF is ''collected from OTP Holder and OTP Firm clearing firms by OCC on behalf of NYSE Arca.'' [6] The Exchange also proposes to clarify that it ''uses reports from OCC when assessing and collecting the ORF.'' [7] The Exchange believes these changes would clarify how the ORF is assessed and collected. To illustrate how the ORF is assessed and collected, the Exchange provides the following set of scenarios.

Scenario 1:

Executing (or Give-Up) Firm is *not* an OTP. The Executing Firm does not ''give-up'' or ''CMTA'' the transaction to another clearing firm.[8]

No ORF Fee is assessed.

Scenario 2:

Executing Firm is an OTP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to another clearing firm that is *not* an OTP Holder.

No ORF Fee is assessed.

Scenario 3:

The Executing (or Give-Up) Firm is an OTP Holder. The Executing Firm does not ''give-up'' or ''CMTA'' the transaction to another clearing firm.

ORF Fee is assessed on the self-clearing Executing Firm.

Scenario 4:

The Executing (or Give-Up) Firm is an OTP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to another clearing firm that is also an OTP Holder.

ORF Fee is assessed on the CMTA (clearing) firm.

Scenario 5:

The Executing (or Give-Up) Firm is *not* an OTP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to another clearing firm that is an OTP Holder.

ORF Fee is assessed on the CMTA (clearing) firm.

* * * * *

As illustrated above, the Exchange does not assess the ORF on non-OTP Holders that self-clear transactions, even if the executing firm is an OTP Holder; the Exchange likewise does not impose the ORF if both the executing firm and the firm that clears the transaction on its behalf are non-OTP Holders.[9]

The Exchange proposes to modify the Fee Schedule to make clear that it does not assess the ORF on outbound linkage trades.[10] ''Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario.

To further streamline the Fee Schedule, the Exchange also proposes to delete superfluous and obsolete references to long-past effective dates. Specifically, the Exchange proposes to delete references to the effective dates of December 1, 2012 and February 3, 2014, which would add clarity and transparency to the Fee Schedule.[11] In addition, the Exchange proposes to define the Options Regulatory Fee as the ORF and to utilize this shorthand reference in the description of this fee.[12]

The Exchange notes that the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of OTP Holder Customer transactions, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. The Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. If the Exchange determines that regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee filing and notifying OTP Holders via Trader Update at least 30 days prior to the effective date. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion of the Exchange's regulatory costs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [13] of the Act, in general, and Section 6(b)(4) and (5) [14] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes the proposed changes to the description of ORF are reasonable, equitable and not unfairly discriminatory because the changes add clarity and transparency to the Fee Schedule by more accurately describing how the ORF is assessed and collected. The proposed change does not alter the operation of the ORF, nor does it alter the per contract rate of the ORF. The Exchange believes that specifying that OCC files are used to determine the assessment and collection of the ORF would add clarity and transparency to the Fee Schedule.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to opt to not to assess and collect the ORF when neither the executing firm nor the CMTA (clearing) firm is an OTP Holder because such entities are not members of the Exchange. Although the Exchange believes that its broad regulatory responsibilities would support applying the ORF to transactions that are executed (even if not ultimately cleared) by an OTP Holder, because its regulatory responsibilities are the same regardless of whether an OTP Holder executes a transaction or clears a transaction, at this time the Exchange imposes the ORF solely on transactions ultimately cleared by OTP Holders.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it is assessed to all OTP Holders on all their transactions that clear as customer at the OCC. The Exchange believes it is appropriate to assess the ORF only to transactions that clear as customer at the OCC because regulating OTP Holders' customer trading activity is more labor intensive

[6] *See* proposed Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, ORF. In connection with the proposed revisions, the Exchange proposes to remove as redundant the word ''indirectly'' from the sentence explaining that the OCC collects the ORF from the OTP Holder clearing firm. *See id.*

[7] *See id. See supra* note 5.

[8] A CMTA or Clearing Member Trade Assignment is an agreement by which an investor may enter derivative trades with a limited number of different brokers and later consolidate these trades with one brokerage house for clearing.

[9] Although the Exchange believes that its broad regulatory responsibilities would support applying the ORF to transactions that are executed (even if not ultimately cleared) by an OTP Holder, the Exchange only imposes the ORF on transactions ultimately cleared by OTP Holders at this time. The Exchange's regulatory responsibilities are the same regardless of whether an OTP Holder enters a transaction or clears a transaction. The Exchange regularly reviews all such activities, including monitoring surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

[10] *See* proposed Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, ORF.

[11] *See id.*

[12] *See id.*

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

and requires greater expenditure of human and technical resources than regulating OTP Holders' non-customer trading activity. The Exchange believes the ORF is designed to be fair by assessing fees to those OTP Holders that require more Exchange regulatory services based on the amount of customer options business they conduct.

The Exchange believes it is reasonable, equitable and nondiscriminatory to not impose the ORF on outbound linkage trades. Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario.

The Exchange believes that the proposal deleting outdated reference to long-past effective dates and removing the word ''indirectly'' is reasonable as it would streamline the Fee Schedule by removing superfluous language thereby making the Fee Schedule easier for market participants to navigate.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of OTP Holder customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. The Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, would be less than or equal to the Exchange's regulatory costs, which is consistent with the view of the Securities and Exchange Commission (''Commission'') that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the ORF is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address any competitive issues but rather to provide more clarity and transparency regarding how the Exchange assesses and collects the ORF. The Exchange believes any burden on competition imposed by the proposed rule change is outweighed by the need to help the Exchange adequately fund its regulatory activities to ensure compliance with the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2018–19 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 No. SR–NYSEArca–2018–19. 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 No. SR–NYSEArca–2018–19, and should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07244 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82988; File No. SR–GEMX–2018–11]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter IV of the Exchange's Schedule of Fees

April 4, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2018, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IV of the Exchange's Schedule of Fees, as described below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Chapter IV of its Schedule of Fees to harmonize it with the rules of Nasdaq BX, Inc. (''BX'').

The amendments eliminate or replace certain obsolete language in the Schedule of Fees. Specifically, the Exchange proposes to amend Chapter IV.F.2, under the heading ''Market Data Connectivity,'' to re-categorize and to update references to the CBOE/Bats/Direct Edge data feeds to reflect their current names. Similarly, the Exchange proposes to delete a $1,000 installation fee that presently applies to the Direct Edge feeds because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. Going forward, a single, one-time $1,000 installation fee will apply to subscribers to any or all of the CBOE data feeds. The Exchange notes that this proposal will render this paragraph of Chapter IV.F.2 consistent with BX Rule 7034. The Exchange also proposes to correct a typographical error in the name of the TSXV Level 2 Feed.

The proposal adds a footnote to the first line of Chapter IV.F, which was mistakenly omitted from the Schedule of Fees, which states that the co-location services described therein are provided by Nasdaq Technology Services LLC.

The Exchange also proposes to correct a typographical error in the numbering of the subsection of Chapter IV entitled ''Exchange Testing Facilities.'' The proposal changes the lettering of this subsection from ''I.'' to ''J.''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that its proposal to update Chapter IV.F.2 will serve the interests of the public and investors by ensuring that the Exchange's Rules are accurate and current with respect to the names of the third party data feeds to which it offers connectivity. Furthermore, the Exchange believes that it is in the public interest to correct typographical errors that could otherwise lead to confusion. These proposals will not impact competition or limit access to or availability of the Exchange or its systems. The Exchange notes the proposal is noncontroversial because BX has made the same changes to its rules.

The Exchange's proposal to eliminate the $1,000 installation fee that presently applies to the Direct Edge feeds is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is reasonable because the Direct Edge feeds are now offerings of CBOE, along with the BZX and BYX feeds. The Exchange believes it is equitable, going forward, to charge a single, one-time $1,000 installation fee to subscribers to any or all of the CBOE data feeds, including the BZX Depth, BYX Depth, EDGA Depth, and EDGX Depth feeds. This proposal is not unfairly discriminatory because it will apply to all similarly situated customers of the CBOE data feeds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In this instance, the proposed changes merely replace obsolete text, update references to data feeds, and correct typographical errors. The Exchange does not intend for or expect that such changes will have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to update its rules without delay to reflect current and accurate information with respect to the third party data feeds to which it offers connectivity and to correct typographical errors. The Commission also notes that BX recently made similar changes to its rules.[11] Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–GEMX–2018–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2018–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2018–11, and should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07239 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[11] *See* Securities Exchange Act Release No. 82628 (February 5, 2018), 83 FR 5818 (February 9, 2018) (SR–BX–2018–006).

[12] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82994; File No. SR–NASDAQ–2018–008]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rules and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value

April 4, 2018.

On January 30, 2018, the Nasdaq Stock Market LLC (''Nasdaq'' or the ''Exchange'') 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 to modify the listing requirements contained in Listing Rule 5635(d) to change the definition of market value for purposes of the shareholder approval rules and eliminate the requirement for shareholder approval of issuances at a price less than book value but greater than market value. The proposed rule change was published for comment in the **Federal Register** on February 20, 2018.[3] The Commission received three comments in response to the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82702 (February 13, 2018), 83 FR 7269 (February 20, 2018).

[4] *See* Letters to Brent J. Fields, Secretary, Commission, from Michael A. Adelstein, Partner, Kelley Drye & Warren LLP, dated February 28, 2018; Penny Somer-Grief, Chair, and Gregory T. Lawrence, Vice-Chair, Committee on Securities Law of the Business Law Section of the Maryland State Bar Association, dated March 13, 2018; and Greg Rodgers, Latham Watkins, dated March 14, 2018. The comment letters are available at: *https://www.sec.gov/comments/sr-nasdaq-2018-008/nasdaq2018008.htm*.

[5] 15 U.S.C. 78s(b)(2).

proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is April 6, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comment letters. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates May 21, 2018, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NASDAQ–2018–008).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07245 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82992; File No. SR–NYSEAMER–2018–11]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE Amex Options Fee Schedule With Respect to the Options Regulatory Fee

April 4, 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 23, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') by modifying the description of the Options Regulatory Fee (''ORF''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to clarify the description of the ORF. The Exchange charges an ORF in the amount of $0.0055 per contract side. The proposed rule change does not change the amount of the ORF, but instead modifies the rule text to clarify how the ORF is assessed and collected. Currently, the Exchange describes the ORF as follows:

The ORF will be assessed on each ATP Holder for all options transactions, including Mini Options, executed or cleared by the ATP Holder that are cleared by the OCC in the customer range regardless of the exchange on which the transaction occurs. The fee is collected indirectly from ATP Holders through their clearing firms by the OCC on behalf of NYSE American. Effective December 1, 2012, an ATP Holder shall not be assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE American. The Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Exchange will notify participants via a Trader Update of any change in the amount of the fee at least 30 calendar days prior to the effective date of the change.[4]

The Exchange proposes to modify this description to more accurately reflect how the ORF is imposed. Specifically, the ORF is assessed to each ATP Holder for all options transactions *cleared* (but not necessarily executed) by an ATP Holder through the OCC in the customer range regardless of the exchange on which the transaction occurs. The ORF is only assessed to ATP Holders that act as the clearing firm for the transaction, regardless of whether the executing firm (if different from the clearing firm) is an ATP Holder.[5] Thus, the Exchange proposes to delete the words ''executed or'' from the current description of the ORF and to make clear that the ORF is assessed ''to each ATP Holder'' on transactions ''that are cleared by the ATP Holder through the OCC'' and that the ORF is ''collected from ATP Holder clearing firms by OCC on behalf of NYSE American.'' [6] The Exchange also proposes to clarify that it ''uses reports from OCC when assessing and collecting the ORF.'' [7] The Exchange believes these changes would clarify how the ORF is assessed and collected. To illustrate how the ORF is assessed and collected, the Exchange provides the following set of scenarios.

Scenario 1:

Executing (or Give-Up) Firm is *not* an ATP Holder. The Executing Firm does not ''give-up'' or ''CMTA'' the transaction to another clearing firm.[8]

No ORF Fee is assessed.

Scenario 2:

Executing Firm is an ATP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to another clearing firm that is *not* an ATP Holder.

No ORF Fee is assessed.

Scenario 3:

The Executing (or Give-Up) Firm is an ATP Holder. The Executing Firm does not ''give-up'' or ''CMTA'' the transaction to another clearing firm.

ORF Fee is assessed on the self-clearing Executing Firm.

Scenario 4:

The Executing (or Give-Up) Firm is an ATP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Fee Schedule, Section VII, Regulatory Fees, ORF, *available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[5] The Exchange uses reports from OCC to determine the identity of the clearing firm and compares that to the list of ATP Holders for billing purposes.

[6] *See* proposed Fee Schedule, Section VII, Regulatory Fees, ORF. In connection with the proposed revisions, the Exchange proposes to remove as redundant the word ''indirectly'' from the sentence explaining that the OCC collects the ORF from the ATP Holder clearing firm. *See id.*

[7] *See id. See supra* note 5.

[8] A CMTA or Clearing Member Trade Assignment is an agreement by which an investor may enter derivative trades with a limited number of different brokers and later consolidate these trades with one brokerage house for clearing.

another clearing firm that is also an ATP Holder.

ORF Fee is assessed on the CMTA (clearing) firm.

Scenario 5:

The Executing (or Give-Up) Firm is *not* an ATP Holder. The Executing Firm ''give-ups'' or ''CMTAs'' the transaction to another clearing firm that is an ATP Holder.

ORF Fee is assessed on the CMTA (clearing) firm.

* * * * *

As illustrated above, the Exchange does not assess the ORF on non-ATP Holders that self-clear transactions, even if the executing firm is an ATP Holder; the Exchange likewise does not impose the ORF if both the executing firm and the firm that clears the transaction on its behalf are non-ATP Holders.[9]

The Exchange proposes to modify the Fee Schedule to make clear that it does not assess the ORF on outbound linkage trades.[10] ''Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario.

To further streamline the Fee Schedule, the Exchange also proposes to delete superfluous and obsolete references to long-past effective dates. Specifically, the Exchange proposes to delete references to the effective dates of December 1, 2012 and February 3, 2014, which would add clarity and transparency to the Fee Schedule.[11]

The Exchange notes that the ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of ATP Holder Customer transactions, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. The Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. If the Exchange determines that regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee filing and notifying ATP Holders via Trader Update at least 30 days prior to the effective date. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion of the Exchange's regulatory costs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[12] of the Act, in general, and Section 6(b)(4) and (5)[13] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes the proposed changes to the description of ORF are reasonable, equitable and not unfairly discriminatory because the changes add clarity and transparency to the Fee Schedule by more accurately describing how the ORF is assessed and collected. The proposed change does not alter the operation of the ORF, nor does it alter the per contract rate of the ORF. The Exchange believes that specifying that OCC files are used to determine the assessment and collection of the ORF would add clarity and transparency to the Fee Schedule.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to opt to not to assess and collect the ORF when neither the executing firm nor the CMTA (clearing) firm is an ATP Holder because such entities are not members of the Exchange. Although the Exchange believes that its broad regulatory responsibilities would support applying the ORF to transactions that are executed (even if not ultimately cleared) by an ATP Holder, because its regulatory responsibilities are the same regardless of whether an ATP Holder executes a transaction or clears a transaction, at this time the Exchange imposes the ORF solely on transactions ultimately cleared by ATP Holders.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it is assessed to all ATP Holders on all their transactions that clear as customer at the OCC. The Exchange believes it is appropriate to assess the ORF only to transactions that clear as customer at the OCC because regulating ATP Holder' customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating ATP Holders' non-customer trading activity. The Exchange believes the ORF is designed to be fair by assessing fees to those ATP Holders that require more Exchange regulatory services based on the amount of customer options business they conduct.

The Exchange believes it is reasonable, equitable and nondiscriminatory to not impose the ORF on outbound linkage trades. Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario.

The Exchange believes that the proposal deleting outdated reference to long-past effective dates and removing the word ''indirectly'' is reasonable as it would streamline the Fee Schedule by removing superfluous language thereby making the Fee Schedule easier for market participants to navigate.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of ATP Holder customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. The Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, would be less than or equal to the Exchange's regulatory costs, which is consistent with the view of the Securities and Exchange Commission (''Commission'') that regulatory fees be

[9] Although the Exchange believes that its broad regulatory responsibilities would support applying the ORF to transactions that are executed (even if not ultimately cleared) by an ATP Holder, the Exchange only imposes the ORF on transactions ultimately cleared by ATP Holders at this time. The Exchange's regulatory responsibilities are the same regardless of whether an ATP Holder enters a transaction or clears a transaction. The Exchange regularly reviews all such activities, including monitoring surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

[10] *See* proposed Fee Schedule, Section VII, Regulatory Fees, ORF.

[11] *See id.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the ORF is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address any competitive issues but rather to provide more clarity and transparency regarding how the Exchange assesses and collects the ORF. The Exchange believes any burden on competition imposed by the proposed rule change is outweighed by the need to help the Exchange adequately fund its regulatory activities to ensure compliance with the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [14] of the Act and subparagraph (f)(2) of Rule 19b–4 [15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEAMER–2018–11 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 No. SR–NYSEAMER–2018–11. 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 No. SR–NYSEAMER–2018–11, and should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–07243 Filed 4–9–18; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:30 p.m. on Thursday, April 12, 2018.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: April 5, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–07409 Filed 4–6–18; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit

proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of that submission.

DATES: Submit comments on or before May 10, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The requested information is submitted by homeowners or renters when applying for federal financial assistance (loans) to help in their recovery from a declared disaster. SBA uses the information to determine the creditworthiness of these loan applicants, as well as their eligibility for financial assistance.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Disaster Home Loan Application.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Form 5C.

Estimated Annual Respondents: 36,345.

Estimated Annual Responses: 36,345.

Estimated Annual Hour Burden: 84,181.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–07238 Filed 4–9–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/04–0322 issued to Chatham SBIC Fund IV, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Dated: April 2, 2018.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2018–07248 Filed 4–9–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of that submission.

DATES: Submit comments on or before May 10, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The requested information is submitted by homeowners or renters when applying for federal financial assistance (loans) to help in their recovery from a declared disaster. SBA uses the information to determine the creditworthiness of these loan applicants, as well as their eligibility for financial assistance.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Disaster Home Loan Application.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Form 5C.

Estimated Annual Respondents: 36,345.

Estimated Annual Responses: 36,345.

Estimated Annual Hour Burden: 84,181.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–07233 Filed 4–9–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of that submission.

DATES: Submit comments on or before May 10, 2018.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of

Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: SBA Form 172 is only used by lenders for loans that have been purchased by SBA and are being serviced by approved SBA lending partners. The lenders use the SBA Form 172 to report loan payment data to SBA on a monthly basis. The purpose of this reporting is to (1) show the remittance due SBA on a loan serviced by participating lending institutions (2) update the loan receivable balances.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

Title: Transaction Report on Loans Serviced by Lender.

Description of Respondents: SBA Lenders.

Form Number: SBA Form 172.

Estimated Annual Respondents: 729.

Estimated Annual Responses: 38,385.

Estimated Annual Hour Burden: 6398.

Curtis Rich,

Management Analyst.

[FR Doc. 2018–07237 Filed 4–9–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/04–0323 issued to Chatham SBIC Fund QP IV, L.P. said license is hereby declared null and void.

Dated: February 1, 2018.

United States Small Business Administration.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2018–07249 Filed 4–9–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10385]

Notice of a Shipping Coordinating Committee Meeting

The Department of State will conduct an open meeting at 9:00 a.m. on May 11, 2018, in the CDR Raymond J. Evans Conference Center, Room 6i10–01–a, of the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's, 2703 Martin Luther King Jr. Avenue SE, Washington DC 20593. The primary purpose of the meeting is to prepare for the 99th session of the International Maritime Organization's (IMO) Maritime Safety Committee to be held at the IMO Headquarters, United Kingdom, May 16–25, 2018.

The agenda items to be considered include:

—Adoption of the agenda; report on credentials
—Decisions of other IMO bodies
—Consideration and adoption of amendments to mandatory instruments
—Measures to enhance maritime security
—Regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS)
—Goal-based new ship construction standards
—Safety measures for non-SOLAS vessels operating in the polar regions
—Carriage of cargoes and containers (report of the fourth session of the Sub-Committee)
—Implementation of IMO instruments (report of the fourth session of the Sub-Committee)
—Ship design and construction (report of the fifth session of the Sub-Committee)
—Pollution prevention and response (report of the fifth session of the Sub-Committee)
—Navigation, communications and search and rescue (report of the fifth session of the Sub-Committee)
—Ship systems and equipment (urgent matters emanating from the fifth session of the Sub-Committee)
—Implementation of the STCW Convention
—Capacity building for the implementation of new measures
—Formal safety assessment
—Piracy and armed robbery against ships
—Unsafe mixed migration by sea
—Application of the Committee's procedures on organization and method of work
—Work programme
—Any other business
—Consideration of the report of the Committee on its ninety-eighth session

Members of the public may attend this meeting up to the seating capacity of the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. To access the teleconference line, participants should call (202) 475–4000 and use Participant Code: 887 809 72. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LCDR Staci Weist, by email at *Eustacia.Y.Weist@uscg.mil,* by phone at (202) 372–1376, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593–7509, not later than May 7, 2018, 5 days prior to the meeting. Requests made after May 7, 2018 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters building. It is recommended that attendees arrive no later than 30 minutes ahead of the scheduled meeting for the security screening process. The Headquarters building is accessible by taxi, public transportation, and privately owned conveyance (upon request for parking). Please contact the meeting coordinator if you plan to participate by phone.

Additional information regarding this and other public meetings may be found at *https://www.dco.uscg.mil/IMO/.*

Joel C. Coito,

Executive Secretary, Shipping Coordinating Committee, Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2018–07319 Filed 4–9–18; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–13]

Petition for Exemption; Summary of Petition Received; American Airlines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 30, 2018.

ADDRESSES: Send comments identified by docket number FAA–2015–3491 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: Julia Greenway, (202) 267–3896, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

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

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–3491.

Petitioner: American Airlines, Inc.

Section(s) of 14 CFR Affected: § 93.123(a).

Description of Relief Sought: American Airlines, Inc. (''American'') requests an extension of Exemption 15867, which exempts American's nonstop service between Ronald Reagan Washington National Airport (DCA) and Lansing, Michigan's Capital Region International Airport (LAN) from the slot requirements at DCA. The exemption expires on June 29, 2018. American requests an extension of the exemption until October 29, 2019.

[FR Doc. 2018–07301 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2018–21]

Petition for Exemption; Summary of Petition Received; Vieques Air Link, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before April 20, 2018.

ADDRESSES: Send comments identified by docket number FAA–2018–0207 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: Nia Daniels, (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Lirio Liu,

Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2018–0207.

Petitioner: Vieques Air Link, Inc.

Section of 14 CFR Affected: 135.243(a)(1).

Description of Relief Sought: Vieques Air Link, Inc. (VAL) requests relief from 14 CFR 135.243(a)(1). This section requires a pilot serving as a pilot in command of a part 135 commuter operation to hold an airline transport pilot certificate. The petitioner proposes to permit a VAL pilot in command to hold a commercial pilot certificate with multiengine airplane and instrument

ratings, minimally have 750 hours of flight time, and 100 hours of cross country time of which 25 hours must be at night. The petitioner proposes to limit the scheduled flights to visual flight rules, scheduled duration of 30 minutes or less and less than 50 nautical miles. VAL operates a small regional airline providing transportation between Puerto Rico's contiguous islands of Vieques and Culebra and the main island of Puerto Rico for critical services with limited other transportation options.

[FR Doc. 2018–07300 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2017–0038]

Surface Transportation Project Delivery Program; TxDOT Audit #4 Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. Prior to the Fixing America's Surface Transportation (FAST) Act of 2015, the Program required semiannual audits during each of the first 2 years of State participation to ensure compliance by each State participating in the Program. This notice finalizes the findings of the fourth audit report for the Texas Department of Transportation's (TxDOT) participation in accordance with these pre-FAST Act requirements.

FOR FURTHER INFORMATION CONTACT: Dr. Owen Lindauer, Office of Project Development and Environmental Review, (202) 366–2655, *owen.lindauer@dot.gov,* or Mr. Jomar Maldonado, Office of the Chief Counsel, (202) 366–1373, *jomar.maldonado@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. This provision has been codified at 23 U.S.C. 327. Since December 16, 2014, TxDOT has assumed FHWA's responsibilities under the National Environmental Policy Act of 1969 and the responsibilities for reviews under other Federal environmental requirements under this authority.

Prior to December 4, 2015, 23 U.S.C. 327(g) required the Secretary to conduct semiannual audits during each of the first 2 years of State participation, annual audits during years 3 and 4, and monitoring each subsequent year of State participation to ensure compliance by each State participating in the program. The results of each audit were required to be presented in the form of an audit report and be made available for public comment. On December 4, 2015, the President signed into law the FAST Act, Public Law 114–94, 129 Stat. 1312 (2015). Section 1308 of the FAST Act amended the audit provisions by limiting the number of audits to one audit each year during the first 4 years of a State's participation.

A draft version of this report was published in the **Federal Register** on December 14, 2017, at 82 FR 59206 and was available for public review can comment. The FHWA received seven responses during the 30-day public notice and comment period. None of the comments were substantive. The American Road and Transportation Builders Association voiced support of this program. The remaining six comments were unrelated to this report. This notice finalizes the findings of the fourth audit report for TxDOT participation in the Surface Transportation Project Delivery Program.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; Public Law 114–94; 23 U.S.C. 327; 49 CFR 1.85.

Issued on: April 3, 2018.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program

FHWA Audit #4 of the Texas Department of Transportation

June 16, 2016 to August 1, 2017

Executive Summary

This report summarizes the results of FHWA's fourth audit review (Audit #4) to assess the performance by the Texas Department of Transportation (TxDOT) regarding its assumption of responsibilities assigned by Federal Highway Administration (FHWA), under a memorandum of understanding (MOU) that took effect on December 16, 2014. TxDOT assumed FHWA's National Environmental Policy Act (NEPA) responsibilities and other environmental review responsibilities related to Federal-aid highway projects in Texas. The status of FHWA's observations from the third audit review (Audit #3), including any TxDOT self-imposed corrective actions, is detailed at the end of this report. The FHWA Audit #4 team (team) appreciates the cooperation and professionalism of TxDOT staff in conducting this review.

The team was formed in October 2016 and met regularly to prepare for the audit. Prior to the on-site visit, the team: (1) performed reviews of project files in TxDOT's Environmental Compliance Oversight System (ECOS), (2) examined TxDOT's responses to FHWA's information requests, and (3) developed interview questions. Interviews of TxDOT and resource agency staff occurred during the on-site portion of this audit, conducted on May 22–26, 2017.

The TxDOT continues to develop, revise, and implement procedures and processes required to carry out the NEPA Assignment Program. Based on information provided by TxDOT and from interviews, TxDOT is committed to maintaining a successful program. This report describes two (2) categories of non-compliance observations and eight (8) observations that represent opportunities for TxDOT to improve its program. It also includes brief status updates of the Audit #3 conclusions.

The TxDOT has continued to make progress toward meeting the responsibilities it has assumed in accordance with the MOU. The non-compliance observations identified in this review will require TxDOT to take corrective action. By taking corrective action and considering changes based on the observations in this report, TxDOT should continue to move the Surface Transportation Project Delivery Program (NEPA Assignment Program) forward successfully.

Background

The NEPA Assignment Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for highway projects. This program is codified at 23 U.S.C. 327. When a State assumes these Federal responsibilities for NEPA project decision-making, the State

becomes solely responsible and liable for carrying out these obligations in lieu of, and without further NEPA related approval by, FHWA.

The State of Texas was assigned the responsibility for making project NEPA approvals and the responsibility for making other related environmental decisions for highway projects on December 16, 2014. In enacting Texas Transportation Code, § 201.6035, the State has waived its sovereign immunity under the 11th Amendment of the U.S. Constitution and consents to defend against any actions brought by its citizens for NEPA decisions it has made in Federal court.

The FHWA project-specific environmental review responsibilities assigned to TxDOT are specified in the MOU. These responsibilities include: compliance with the Endangered Species Act (ESA), Section 7 consultations with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service, and Section 106 consultations with the Texas Historical Commission (THC) regarding impacts to historic properties. Other responsibilities may not be assigned and remain with FHWA. They include: (1) responsibility for project-level conformity determinations under the Clean Air Act, and (2) the responsibility for government-to-government consultation with federally-recognized Indian Tribes. Based on 23 U.S.C. 327(a)(2)(D), any responsibility not explicitly assigned in the MOU is retained by FHWA.

The MOU specifies that FHWA is required to conduct six audit reviews. These audits are part of FHWA's oversight responsibility for the NEPA Assignment Program. The reviews are to assess a State's compliance with the provisions of the MOU. They also are used to evaluate a State's progress toward achieving its performance measures as specified in the MOU; to evaluate the success of the NEPA Assignment Program; and to inform the administration of the findings regarding the NEPA Assignment Program. In December 2015, statutory changes in Section 1308 of the Fixing America's Surface Transportation Act (FAST Act) reduced the frequency of these audit reviews to one audit per year during the first 4 years of State participation in the program. This audit is the fourth completed in Texas. The fifth and final audit is planned for 2018.

Scope and methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). An audit generally is defined as an official and careful examination and verification of accounts and records, especially of financial accounts, by an independent, unbiased body. Regarding accounts or financial records, audits may follow a prescribed process or methodology, and be conducted by ''auditors'' who have special training in those processes or methods. The FHWA considers this review to meet the definition of an audit because it is an unbiased, independent, official, and careful examination and verification of records and information about TxDOT's assumption of environmental responsibilities. Principal members of the team that conducted this audit have completed special training in audit processes and methods.

The diverse composition of the team and the process of developing the review report and publishing it in the **Federal Register** help to maintain an unbiased review and establish the audit as an official action taken by FHWA. The team for Audit #4 included NEPA subject-matter experts from the FHWA Texas Division Office, as well as FHWA offices in Washington, DC, Atlanta, GA, Charleston, SC, and Salt Lake City, UT. In addition to the NEPA experts, the team included FHWA planners, engineers, and air quality specialists from the Texas Division Office.

Audits, as stated in the MOU (Parts 11.1.1 and 11.1.5), are the primary mechanism used by FHWA to oversee TxDOT's compliance with the MOU, evaluate TxDOT's progress toward achieving the performance measures identified in the MOU (Part 10.2), and collect information needed for the Secretary's annual report to Congress. These audits also consider TxDOT's technical competency and organizational capacity, adequacy of the financial resources committed by TxDOT to administer the responsibilities assumed, quality assurance/quality control (QA/QC) process, attainment of performance measures, compliance with the MOU requirements, and compliance with applicable laws and policies in administering the responsibilities assumed.

This audit reviewed processes and procedures (i.e., toolkits and handbooks) TxDOT staff use to process and make NEPA approvals. The information the team gathered that served as the basis for this audit came from three primary sources: (1) TxDOT's response to a pre-audit #4 information request (PAIR #4), (2) a review of both a judgmental and random sample of project files in ECOS with approval dates after February 1, 2016, and (3) interviews with TxDOT and the USFWS staff. The TxDOT provided information in response to FHWA pre-audit questions and requests for documents and provided a written clarification to FHWA thereafter. That material covered the following six topics: program management, documentation and records management, quality assurance/quality control, legal sufficiency review, performance measurement, and training. In addition to considering these six topics, the team also considered the following topics: Endangered Species Act (ESA) compliance, consideration of noise impacts and noise mitigation (Noise), and adherence to the TxDOT Public Involvement plan.

The intent of the review was to check that TxDOT has the proper procedures in place to implement the responsibilities assumed through the MOU, ensure that the staff is aware of those procedures, and make certain the staff implements the procedures appropriately to achieve compliance with NEPA and other assigned responsibilities. The review did not second guess project-specific decisions, as such decisions are the sole responsibility of TxDOT. The team focused on whether the procedures TxDOT followed complied with all Federal statutes, regulation, policy, procedure, process, guidance, and guidelines.

The team defined the timeframe for highway project environmental approvals subject to this fourth audit to be between February 1, 2016, and January 31, 2017. The project file review effort occurred in two phases: approvals made during Round 1 (Feb 1, 2016–July 31, 2016) and Round 2 (Aug 1, 2016–Jan 31, 2017). One important note is that this audit project file review time frame spans a full 12 months, where previous audits reviewed project approvals that spanned 6 months. The population of environmental approvals included 224 projects based on 12 certified lists of NEPA approvals reported monthly by TxDOT. The NEPA project file approvals reviewed included: (1) categorical exclusion (CE) determinations, (2) approvals to circulate draft Environmental Assessments (EA), (3) findings of no significant impacts (FONSI), (4) re-evaluations of EAs, Section 4(f) decisions, (5) approvals of a draft environmental impact statement, and (6) re-evaluations of EISs and records of decision (ROD). Project files reviewed constitute a sample of randomly selected c-listed CEs, and 100 percent of the following file approvals: 4(f) approvals; CE determinations for actions not listed in the ''c'' or ''d'' lists; the FONSI and its EA; the ROD and its EIS; and re-evaluations of these documents and approvals.

The interviews conducted by the team focused on TxDOT's leadership and staff at the Environmental Affairs Division (ENV) Headquarters in Austin and staff in four of TxDOT's Districts. The team interviewed the Austin District and then divided into two groups (the next day) to complete the face-to-face interviews of district staff in Waco and San Antonio. Members of the team interviewed staff from the Ft. Worth District via teleconference. The team used the same ECOS project document review form but updated interview questions for districts and ENV staff with new focus areas to gather data.

Overall Audit Opinion

The TxDOT continues to make progress in the implementation of its program that assumes FHWA's NEPA project-level decision responsibility and other environmental responsibilities. The team acknowledges TxDOT's effort to refine and, when necessary, establish additional written internal policies and procedures. The team found evidence of TxDOT's continuing efforts to train staff in clarifying the roles and responsibilities of TxDOT staff, and in educating staff in an effort to assure compliance with all of the assigned responsibilities.

The team identified two non-compliant observations in this audit that TxDOT will need to address through corrective actions. These non-compliance observations come from a review of TxDOT procedures, project file documentation, and interview information. This report also identifies several notable observations and successful practices that we recommend be expanded.

Non-Compliance Observations

Non-compliance observations are instances where the team found the TxDOT was out of

compliance or deficient in proper implementation of a Federal regulation, statute, guidance, policy, the terms of the MOU, or TxDOT's own procedures for compliance with the NEPA process. Such observations may also include instances where TxDOT has failed to maintain technical competency, adequate personnel, and/or financial resources to carry out the assumed responsibilities. Other non-compliance observations could suggest a persistent failure to adequately consult, coordinate, or consider the concerns of other Federal, State, Tribal, or local agencies with oversight, consultation, or coordination responsibilities. The FHWA expects TxDOT to develop and implement corrective actions to address all non-compliance observations. As part of information gathered for this audit, TxDOT informed the team they are still implementing some recommendations made by FHWA on Audit #3 to address non-compliance. The FHWA will conduct follow-up reviews of non-compliance observations in Audit #5 from this review.

The MOU (Part 3.1.1) states that ''[p]ursuant to 23 U.S.C. 327(a)(2)(A), on the Effective Date, FHWA assigns, and TxDOT assumes, subject to the terms and conditions set forth in 23 U.S.C. 327 and this MOU, all of the USDOT Secretary's responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. with respect to the highway projects specified under subpart 3.3. This includes statutory provisions, regulations, policies, and guidance related to the implementation of NEPA for Federal highway projects such as 23 U.S.C. 139, 40 CFR 1500–1508, DOT Order 5610.1C, and 23 CFR 771 as applicable.'' Also, the performance measure in MOU Part 10.2.1(A) for compliance with NEPA and other Federal environmental statutes and regulations commits TxDOT to maintaining documented compliance with requirements of all applicable statutes and regulations, as well as provisions in the MOU. The following non-compliance observations are presented as two categories of non-compliance observations: (1) with procedures specified in Federal laws, regulations, policy, or guidance, or (2) with the State's environmental review procedures.

Audit #4 Non-Compliance Observation #1: Section 5.1.1 of the MOU requires the State to follow Federal laws, regulations, policy, and procedures to implement the responsibilities assumed. This review identified several examples of deficient adherence to these Federal procedures.

a) *Project scope analyzed for impacts differed from the scope approved*

Making an approval that includes actions not considered as part of environmental review is deficient according to the FHWA Technical Advisory 6640.8A. The scope of the FONSI cannot include actions not considered in the EA. This recurring deficiency was also identified for a project file in Audit #3.

b) *Plan consistency prior to NEPA approval*

Section 3.3.1 of the MOU requires that prior to approving any CE determination, FONSI, final EIS, or final EIS/ROD, TxDOT will ensure and document that the project is consistent with the current Transportation Improvement Plan, Regional Transportation Plan, or Metropolitan Transportation Plan. The team identified two projects where TxDOT made NEPA approval without meeting the MOU consistency requirement.

c) *Public Involvement*

The FHWA's regulation at 23 CFR 771.119(h) requires a second public notification to occur 30 days prior to issuing a FONSI. The team reviewed a project file where TxDOT approved a FONSI for an action described in 23 CFR 771.115(a) without evidence of a required additional public notification. TxDOT acknowledges this requirement in their updated public involvement handbook.

d) *Timing of NEPA approval*

One project file lacked documentation for Section 106 compliance prior to TxDOT making a NEPA approval. The FHWA regulation at 23 CFR 771.133 expects compliance with all applicable laws or reasonable assurance all requirements will be met at the time of an approval.

Audit #4 Non-Compliance Observation #2: Section 7.2.1 of the MOU requires the State to develop State procedures to implement the responsibilities assumed. This review identified several examples of deficient adherence to these state procedures.

a) *Reporting of approvals made by TxDOT*

MOU section 8.7.1 requires the State to certify on a list the approvals it makes pursuant to the terms of the MOU and Federal review requirements so FHWA knows which projects completed NEPA and are eligible for Federal-aid funding. The FHWA identified a project whose approval was made pursuant to State law and therefore should not have been on the certified list of projects eligible for Federal-aid funding. This is a recurrence from Audit #3.

b) *Noise workshop timing*

One project did not follow the TxDOT Noise guidelines for the timing of a required noise workshop. TxDOT improperly held a noise workshop months before the public hearing opportunity. The TxDOT noise guidelines (Guidelines for Analysis and Abatement of Roadway Traffic Noise, 2011) identifies procedures for compliance with 23 CFR 772. This is a recurrence of the same non-compliance observation in Audit #3.

c) *Endangered Species Act Section 7*

The TxDOT provided training to staff and updated its Section 7 compliance procedures, as part of a partnering effort after Audit #3 between FHWA, TxDOT, and USFWS. However, one project was still not in compliance with the updated procedures.

d) *Indirect & Cumulative Impacts*

One project file reviewed by the team lacked the indirect and cumulative impact analysis that is expected according to TxDOTs indirect and cumulative impact evaluation procedures.

e) *Federal approval request for a State-funded project*

The review team reviewed a project file where TxDOT followed State environmental laws and then requested Federal-aid to purchase right-of-way. TxDOT informed the team that they are removing Federal funds from the ROW portion of this project as corrective action. This is a recurrence from Audit #3.

Successful Practices and Other Observations

This section summarizes the team's observations about issues or practices that TxDOT may consider as areas to improve. It also summarizes practices that the team believes are successful, so that TxDOT can consider continuing or expanding those programs in the future. Further information on these successful practices and observations is contained in the following subsections that address these six topic areas: program management; documentation and records management; quality assurance/quality control; legal sufficiency; performance management; and training.

Throughout the following subsections, the team lists eight observations for TxDOT to consider in order to make improvements. The FHWA's suggested implementation methods of action include: corrective action, targeted training, revising procedures, continued self-assessment, improved QA/QC, or some other means. The team acknowledges that, by sharing the preliminary draft audit report with TxDOT, TxDOT has begun the process of implementing actions to address these observations and improve its program prior to the publication of this report.

1. Program Management

Successful Practices and Observations

The team appreciates TxDOT ENV willingness to partner with FHWA before, during, and after audit reviews. This has resulted in improved communication and assisted the team in verifying many of the conclusions in this report. The quarterly partnering sessions, started in 2016, will be an ongoing effort. These exchanges of information between FHWA and TxDOT have clarified and refined FHWA's reviews and assisted TxDOT's efforts to make improvements to their environmental review processes and procedures.

The team noted in district and ENV staff interviews that they welcomed the opportunity to be responsible and accountable for NEPA decisions. In addition, TxDOT District staff members and management have said in interviews that they are more diligent with their documentation because they know that these approvals will be internally assessed and the district held accountable by the TxDOT ENV Program Review Team (formerly TxDOT's Self-Assessment Branch, [SAB]). District staff indicated in interviews that the former SAB detailed reviews were highly valued because they learned from their mistakes and make improvements. Accountability, in part, is driving an enhanced desire for TxDOT staff to consistently and carefully complete environmental reviews.

The team recognizes enhanced communication among individuals in the project development process through the Core Team (a partnership of district and ENV environmental staff assigned to an individual EIS project) as a valuable concept. Information gained from interviews and materials provided by TxDOT in most cases demonstrate improved communication amongst districts and between districts and ENV. The team noted that ''NEPA Chats'' (regular conference calls led by ENV,

providing a platform for districts to discuss complex NEPA implementation issues) are still, for the most part, well received. Districts also provide internal self-initiated training across disciplines so everyone in the district office is aware of TxDOT procedures to try to ensure that staff follows NEPA-related, discipline specific processes. This keeps projects on-schedule or ensures that there are no surprises if projected schedules slip.

Audit #4 Observation #1: Noise procedure clarification.

TxDOT ENV is currently in the process of proposing an update to their Noise Guidelines. The team reviewed a project file where the decisions based on an original Noise Study were re-examined to reach a different conclusion. The current TxDOT Noise Guidelines do not address how, or under what conditions a re-examination of an original Noise Study report that reaches different conclusions could occur. The team urges TxDOT to clarify their Noise Guidelines to ensure consistent and fair and equitable treatment of stakeholders affected by highway noise impacts.

Audit #4 Observation #2: Section 7 of the Endangered Species Act

During the interviews, the review team learned that there is a disincentive for ''may affect'' determinations because TxDOT cannot predict the amount of time required to complete informal consultation. If a particular project's schedule could accommodate the time required for informal consultation, a ''may affect'' determination might be made to minimize a risk of a legal challenge.

The review team would like to draw TxDOT's attention to the possibility that risk management decisionmaking can introduce a bias or ''disincentive'' to coordinate with USFWS when it is expected according to Federal policy and guidance. In fulfilling ESA Section 7(a)(2) responsibilities, Congress intended the ''benefit of the doubt'' to be given to the species (H.R. Conf. Rep. 96–697, 96 Cong., 1st sess. 1979).

The team acknowledges that TxDOT plans to train staff on its revised ESA handbook and standard operating procedures (SOP), and this may inform staff of this bias. Through interviews, the team learned that in certain districts with sensitive habitats (i.e., karst) or the possibility of a species present (i.e., a salamander), ENV managers would review a project's information in addition to the district's and/or ENV biologists. This enhanced review process is currently limited only to two districts and could be expanded to include instances where such bias may occur.

Audit #4 Observation #3: Project description and logical termini

The team reviewed one project where the scope described in the NEPA document differed from what was proposed to be implemented. A proposed added capacity project's description indicated a longer terminus compared to a schematic. The team could not determine whether the description or the schematic accurately reflected the project proposal.

A second reviewed project contained a description of the proposed project as the project's purpose instead of identifying a purpose that would accommodate more than one reasonable alternative. The team urges TxDOT to make reviewers aware of these challenges.

2. Documentation and Records Management

The team relied on information in ECOS, TxDOT's official file of record, to evaluate project documentation and records management practices. Many TxDOT toolkit and handbook procedures mention the requirement to store official documentation in ECOS. The ECOS is also a tool for storage and management of information records, as well as for disclosure within TxDOT District Offices. ECOS is how TxDOT identifies and procures information required to be disclosed to, and requested by, the public. ECOS is being upgraded, and there are four more phased upgrades planned over time. The most recent work includes incorporation of a revised scope development tool, Biological Evaluation form, and new way to electronically approve a CE determination form in lieu of paper. The TxDOT staff noted that ECOS is both adaptable and flexible.

Successful Practices and Observations

A number of successful practices demonstrated by TxDOT were evident as a result of the documentation and records management review. The team learned that ECOS continues to improve in download speed and compatibility. The team learned through interviews with TxDOT staff members that ENV is changing the scope development tool within ECOS and that functionality will improve. Some staff indicated that they also utilized the scope development tool to develop their own checklists to ensure that all environmental requirements have been met prior to making a NEPA approval.

Audit #4 Observation #4: Record keeping integrity

The team's review included project files that were incomplete because of missing or incorrect references that would link the files to environmental review documentation. TxDOT has indicated that they are working to address this problem. In addition to the issue of database links, the team identified a project file that lacked a record of required public involvement required per TxDOT procedures. The team learned from interviews that ENV and district staff do not consistently include such documentation in ECOS. Also, one reviewed project file had outdated data for threatened and endangered species. The team urges TxDOT staff to rely upon up to date and complete data in making project decisions.

The team identified one project file where total project costs were not presented in the project documentation and EA documents were added after the FONSI was signed. The added EA documentation was editorial in nature. The team urges TxDOT to ensure the project file contains supportive documentation. Material that was not considered as part of the NEPA decision, and that was dated after the NEPA approval should not be included in a project's file.

The team found a project file that had conflicting information about a detour. The review form indicated that no detour was proposed, but letters to a county agency said that a road would be closed, which would require addressing the need for a detour. Our review was unable to confirm the detour or whether the impact road closure was considered.

3. Quality Assurance/Quality Control (QA/QC)

Successful Practices and Observations

The team observed some continued successful practices from previous audits in QA/QC. These successful practices include the use of established checklists, certifications, NEPA Chats, and the CORE Team concept (items described in previous audit reports). The TxDOT District Office environmental staff continue to do peer reviews of environmental decisions to double check the quality and accuracy of documentation. The Environmental Affairs Division has established a post-NEPA review team (performance review team) that was briefly mentioned in the Self-Assessment report to FHWA. Through our interviews, we learned that the team reaches out to ENVs own Section Directors and subject matter experts, in addition to District environmental staff, regarding their observations to improve the quality of documentation in future NEPA decisions. The FHWA team observed increased evidence in ECOS of documentation of collaboration illustrating the efforts to improve document quality and accuracy.

Audit #4 Observation #5: Effectiveness and change in QA/QC

Based on project file reviews, the team found errors and omissions that should have been identified and addressed through TxDOT quality control. Also, TxDOT's certified monthly list of project decisions contained errors, some of which were recurring.

During this review period, the team was informed that TxDOT's approach to QA/QC had changed since the previous audit review. In audit #3, the team identified the Self-Assessment Branch (SAB) as a successful practice. TxDOT's response in the PAIR #4 indicated SAB was disbanded and ENV did not explain how its function would be replaced. Through interviews, the team learned that TxDOT had reorganized its SAB staff and modified its approach to QA/QC. This report identifies a higher number of observations that were either non-compliant or the result of missing or erroneous information compared to previous audits. The team could not assess the validity and relevance of TxDOT's self-assessment of QA/QC because TxDOT's methodology (sampling and timeframe) was not explained. Lastly, through interviews with district environmental staff, the team learned that they are unclear on how errors and omissions now identified by the new ''performance review team'' and ENV subject matter experts (SMEs) are to be resolved. The team urges TxDOT to evaluate its new approach to QA/QC with relevant and valid performance measures and to explain its approach to QA/QC to its staff.

4. Legal Sufficiency Review

Based on the interviews with two of the General Counsel Division (GCD) staff and documentation review, the requirements for legal sufficiency under the MOU continue to be adequately fulfilled.

There are five attorneys in TxDOT's GCD, with one serving as lead attorney. Additional assistance is provided by a consultant attorney who has delivered environmental legal assistance to ENV for several years and by an outside law firm. The contract for the outside law firm is currently going through a scheduled re-procurement. The GCD assistance continues to be guided by ENVs Project Delivery Manual Sections 303.080 through 303.086. These sections provide guidance on conducting legal sufficiency review of FHWA-funded projects and those documents that are to be published in the **Federal Register**, such as the Notice of Intent (NOI) to prepare an EIS, Statute of Limitation (139(l)), and Notice of Availability of EIS.

GCD continues to serve as a resource to ENV and the districts and is involved early in the development of large and complex projects. One example is the very large Houston District IH 45 project around downtown Houston with an estimated cost of $4.5 billion. The GCD lead attorney has been involved in the project and participated in the project's public hearing. GCD participates in the monthly NEPA chats and recently provided informal training during the chat on project scoping, logical termini, and independent utility.

According to TxDOT's response to FHWA's PAIR #4, GCD staff has reviewed or been involved in legal review for eight projects. The ENV project delivery managers make requests for review of a document or assistance to the lead attorney, who then assigns that project to an attorney for legal review. Attorney comments are provided in the standard comment response matrix back to ENV and are reviewed by the lead attorney. All comments must be satisfactorily addressed for GCD to complete its legal sufficiency determination. The GCD does not issue conditional legal sufficiency determinations. Legal sufficiency is documented by email to ENV.

A notable effort by GCD, in the last year, were the two lawsuits on TxDOT issued Federal environmental FONSI decision on the MOPAC intersections, the ongoing environmental process on the widening of south MOPAC, and State environmental decision on SH 45 SW. The lawsuit advanced only the Federal environmental decision on the MOPAC intersections. GCD worked first to develop the administrative record, having the numerous consultant and TxDOT staff provide documentation of their involvement on the MOPAC intersections project. Staff from GCD, Attorney General, and outside counsel then developed the voluminous record, which is their first since assuming NEPA responsibilities. The initial request by the plaintiffs for a preliminary injunction on the project was denied in Federal court, and, since a hearing on the merits was held later, they are awaiting the judge's decision. The FHWA and DOJ were notified, as appropriate, of the notices of pleadings through the court's PACE database.

Successful Practice

ENV involves GCD early on projects and issues in need of their attention and expertise. Based on our discussions, GCD continues to be involved with the districts and ENV throughout the NEPA project development process, when needed, and addresses legal issues, as appropriate. Based on interview responses, observation, and the comments above, TxDOT's approach to legal sufficiency is adequate.

5. Performance Measurement

TxDOT states in their self-assessment summary report that they achieved acceptable performance goals for all five performance-based performance metrics with the remaining seven performance goals remaining, consistent with the March 2016 self-assessment. The TxDOT continues to devote a high level of effort to develop the metrics to measure performance. During this audit, the team learned through interviews that the methodology employed to assess QA/QC performance had been revamped to the point that the results do not appear to be comparable with measures from previous years.

Successful Practices and Observations

As part of TxDOT's response to the PAIR #4, TxDOT provided an alternate performance metric for EA timeframes that analyzed the distribution of EA durations for projects initiated and completed prior to assignment, initiated prior to assignment but completed after assignment, and ones initiated and completed after assignment. This creative approach identified both improved and diminished performance in EA timeframes for projects initiated before assignment but completed after assignment. TxDOT reports in their response to the PAIR #4 that, at a 95 percent confidence interval, comparing completion times for EA projects before and after assignment, the post-assignment median timeframe for completion is faster after assignment.

Audit #4 Observation #6: Performance measure awareness and effectiveness

The team noted through interviews of TxDOT District Office staff that many were unaware of TxDOT performance measures and their results. We encourage TxDOT environmental leadership to make these results available to their staff, if only as a means of feedback on performance. Overall, these measures are a positive reflection of actions taken by TxDOT staff, and sharing changes in performance measures may lead to improved performance.

As mentioned above, the team learned that TxDOT's QA/QC methodology changed from that utilized since the previous audit. Previously, the measure reported the percent of project files determined to be complete and accurate, but included information on substantive errors made across different documents. Now the measure is limited only to the percent of project files determined to be complete that relies upon new yes/no/NA response questions whose result lacks an evaluation of the substantial-ness of errors of accuracy or completion. The team urges TxDOT to continue to analyze the information they are already collecting on the completeness and accuracy of project files as means of implementing information that usually leads to continuous improvement.

6. Training Program

Since the period of the previous audit, TxDOT has revamped its on-line training program, as training courses content were out of date. Training continues to be offered to TxDOT staff informally through NEPA chats as well as through in-person instructor training. All of the training information for any individual TxDOT District staff environmental professional can be found on a TxDOT SharePoint site and is monitored by the training coordinator (especially the qualifications in the Texas Administrative Code). This makes it much more straightforward for third parties (including FHWA) to assess the district staff competency and exposure to training. Since Audit #3 TxDOT has increased the number of hours of training that staff are required to have to maintain environmental certification from 16 to 32 hours. Based on interviews, we learned that some individuals had far exceeded the minimal number of training hours required. We learned that training hours could be earned by participating in the environmental conference, but with a stipulation that other sources of training would be required.

Successful Practices and Observations

The team recognizes the following successful training practices. We learned from interviews that two TxDOT District Offices conduct annual training events for staff of local governments as a means to help them develop their own projects. This training identifies the TxDOT expectations for successful project development, including environmental review.

Another successful practice we learned from interviews, and reported by TxDOT in the list of training scheduled, is that public involvement training has been revised to emphasize additional outreach that goes beyond the minimum requirements. The emphasis appears to be on achieving meaningful public engagement rather than simple public disclosure.

Finally, the team would like to acknowledge that TxDOT has recognized and taken advantage of cross training that is a successful practice. The TxDOT ENV strategic planning coordinator informed us in an interview that he co-taught a class on planning consistency by adding an environmental component. The team taught how the planning issues relate to environmental review and compliance five or six times throughout the State. The ENV strategic planning coordinator is now working with the local government division to add an environment module to the Local Project Assistance class with specific discussion of environmental reviews (adding information on how to work with ENV at TxDOT, or how to find consultants who are approved to do work for TxDOT).

Audit #4 Observation #7: Additional outreach on improvements.

The team learned through interviews the value and importance of NEPA chats for informing ENV staff when there are changes

in procedures, guidance, or policy. For example, when the handbook for compliance with ESA was first completed, it was the subject of a NEPA chat. The team is aware of recent changes TxDOT made to the handbook related to a non-compliance related to ESA compliance. Based on information gained from interviews, the team learned that the changes to the ESA SOP/handbook were not followed by a NEPA chat. As a result, we confirmed that most of the TxDOT Biology SMEs were unaware of the handbook changes. The team appreciates that TxDOT has revised its ESA handbook and urges staff to implement training or other outreach to inform TxDOT staff of these revisions.

Audit #4 Observation #8: FAST Act training.

The Fixing America's Transportation (FAST) Act included several new statutory requirements for the environmental review process, as well as other changes that change NEPA procedures and requirements. The FHWA's Office of Project Development and Environmental Review has released some guidance on how to implement these requirements and anticipates releasing additional information. Even though additional information on these changes is forthcoming, States under NEPA assignment are required to implement these changes. The team learned through TxDOT's PAIR #4, and through interviews, that TxDOT has neither developed nor delivered training to its staff concerning new requirements for the FAST Act for environmental review. In response to this observation, TxDOT is currently collaborating with FHWA to develop a presentation on this topic for its annual environmental conference.

Status of Non-Compliance Observations and Other Observations from Audit #3 (April 2017)

Audit #3 Non-Compliance Observations

1. *Section 7 Consultation*—TxDOT ENV made revisions to their ESA procedures that they have shared with FHWA and USFWS via partnering sessions. TxDOT implementation and training efforts are still pending by ENV management on the revised procedures to ENV and district staff.

2. *Noise Policy*—TxDOT has informed the team that TxDOT is in the process of updating the 2011 Noise Guidelines. TxDOT will submit those guidelines to FHWA for review and approval once they are updated. TxDOT has not indicated whether they intend to provide training on these guidelines for TxDOT District Office and consultant staff.

3. *Public Involvement*—TxDOT updated their FHWA approved Handbook in November 2016. There was one recurrence of a non-compliant action that was reported in Audit #3 during Audit #4. TxDOT informed FHWA that ENV will request that FHWA review their Texas Administrative Code in lieu of their previous request that FHWA review only their Public Involvement Handbook.

4. *Section 4(f)*—FHWA did not have any non-compliance observations in regards to TxDOT carrying out their assigned Section 4(f) responsibilities during Audit #4.

Audit #3 Observations

1. *A certified project had an incomplete review*—TxDOT continues to certify NEPA approvals for projects on a list provided to FHWA. This audit review identified an error of the inclusion of a project on a certified list.

2. *Inconsistent and contradictory information in some project files*—TxDOT has made ECOS software upgrades recently that address this problem. This audit review continued to identify project file errors in the consistency of information.

3. *TxDOT's QA/QC performance measure could demonstrate continuous improvement*—Since Audit #3, TxDOT has developed a new approach to the QA/QC performance measure. For CE reviews, the methodology is based on ''yes/no/NA'' answers to 50 questions (for EA projects there are 100 questions) based on requirements in the TxDOT handbooks. The measures are an average of the individual projects reviewed. TxDOT has not addressed how this new measure may demonstrate continuous improvement.

4. *Consider implementing more meaningful timeliness measures*—TxDOT's response to the pre-audit information request as well as in their self-assessment summary included detailed discussions of the timeliness measures for CEs as well as for EA projects that are meaningful.

5. *TxDOT's ability to monitor the certification and competency status of their qualified staff*—TxDOT has included on its training SharePoint site a database that identifies each environmental staff member, a complete list of training they have completed, and when that training occurred. TxDOT's training coordinator is responsible for monitoring this database to ensure all staff maintain their competency and qualification status per State law as well as the ongoing training requirement specified by the ENV director.

Finalization of Report

The FHWA received seven responses to the **Federal Register** Notice during the public comment period for this draft report. None of comments were substantive; one from the American Road and Transportation Builders Association voiced support of this program. Six comments were unrelated to this report. This report is a finalized draft version of this report without substantive changes.

[FR Doc. 2018–07293 Filed 4–9–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2018–0002]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on December 11, 2017 (82 FR 58270).

DATES: Comments must be submitted on or before May 10, 2018.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On December 11, 2017, FTA published a 60-day notice (82 FR 27958) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received (1) comment after issuing this 60-day notice. However, that comment was posted five days after the comment period expired and the comment was outside the scope of the Paperwork Reduction Act and made no reference to the grant program or any FTA related programs. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should

submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: Clean Fuel Cell Grant Program.

OMB Control Number: 2132–0573.

Type of Request: Extension of a currently approved information collection.

Abstract: The Clean Fuels Grant Program was developed to assist non-attainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). The program also supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies. The Clean Fuels Grant Program was repealed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funds previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

Annual Estimated Total Burden Hours: 168 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FTA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov*.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

William Hyre,

Deputy Associate Administrator for Administration.

[FR Doc. 2018–07255 Filed 4–9–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

VA Prevention of Fraud, Waste, and Abuse Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the VA Prevention of Fraud, Waste, and Abuse Advisory Committee will be held on May 17, 2018 from 8:00 a.m. until 5:00 p.m. (CST) and May 18, 2018 from 8:00 a.m. until 5:00 p.m. (CST) at the Financial Services Center, 7600 Metropolis Drive, Austin, TX 78744. The sessions are closed to the public while the Committee conducts tours of VA facilities, participating in off-site events, and participating in workgroup sessions. The sessions are also closed because the Committee is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

The purpose of the Committee is to advise the Secretary, through the Assistant Secretary for Management and Chief Financial Officer, on matters relating to improving and enhancing VA's efforts to identify, prevent, and mitigate fraud, waste, and abuse across VA in order to improve the integrity of VA's payments and the efficiency of its programs and activities.

The agenda will include detailed discussion of data analytics relating to VA's Office of Community Care, Office of Inspector General, claims processing system, and Treasury Partnership. During the closed meeting the Committee will discuss VA beneficiary and patient information in which there is a clear unwarranted invasion of the Veteran or beneficiary privacy.

For additional information about the meeting, please contact Ms. Tamika Barrier, Designated Federal Officer, at (757) 254–8630 or email at *tamika.barrier@va.gov.*

Dated: April 5, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–07341 Filed 4–9–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0688]

Agency Information Collection Activity: Department of Veterans Affairs Acquisition Regulation (VAAR), Security for Government Financing

AGENCY: The Office of Management (OM), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Management (OM), Department of Veterans Affairs (VA), 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 May 10, 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. 2900–0688'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0688'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Department Of Veterans Affairs Acquisition Regulation (VAAR) 832.202–4, Security for Government Financing.

OMB Control Number: 2900–0688.

Type of Review: Extension of a currently approved collection.

Abstract: This request for an extension is for VAAR 832.202–4, Security for Government Financing. FAR subpart 32.2 authorizes the use of certain types of Government financing on commercial item purchases. 41 U.S.C. 255(f) requires the Government to obtain adequate security for Government financing. However, FAR 32.202–4(a)(2) provides that, subject to agency regulations, the contracting officer may determine that an offeror's financial condition is adequate security. VAAR 832.202–4, Security for Government Financing, specifies the type of information that the contracting officer may obtain to determine whether or not the offeror's financial condition constitutes adequate security.

The information that is gathered under VAAR 832.202–4 will be used by the VA contracting officer to assess whether or not the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance.

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 Volume 83, No. 7, January 10, 2018, pages 1286.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Burden: VAAR 832.202–4—10 Burden Hours.

Estimated Average Burden Per Respondent: VAAR 832.202–4—1 Hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: VAAR 832.202–4 —10.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–07342 Filed 4–9–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that the Advisory Committee on Minority Veterans will be held in Saint Louis, Missouri from April 17–19, 2018, at the below times and locations:

On April 17, from 8:45 a.m. to 12:00 p.m., at the VA St. Louis Health Care System—John Cochran Division, Bldg. 2, Education Wing, Room 141 & 142, 915 North Grand Blvd., St. Louis, Missouri.

On April 18, from 9:00 a.m. to 11:00 a.m., at the Jefferson National Cemetery, 2900 Sheridan Road, Saint Louis, MO; from 4:30 p.m. to 6:30 p.m., conducting a Town Hall Meeting at the Harris-Stowe State University (HSSU) William L. Clay Sr. Early Childhood Center's Professional Development Auditorium—Room 204, 3026 Laclede Ave., Saint Louis, MO.

On April 19, from 8:30 a.m. to 4:00 p.m., at the VA St. Louis Health Care System—John Cochran Division, Bldg. 2, Education Wing, Room 141 & 142, 915 North Grand Blvd., Saint Louis, MO.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans, to assess the needs of minority Veterans and to evaluate whether VA compensation and pension, medical and rehabilitation services, memorial services outreach, and other programs are meeting those needs.

The Committee will make recommendations to the Secretary regarding such activities subsequent to the meeting.

On the morning of April 17 from 8:45 a.m. to 11:00 a.m., the Committee will meet in open session with key staff at the VA Saint Louis Health Care System—John Cochran Division to discuss services, benefits, delivery challenges, and successes. From 11:00 a.m. to 12:00 p.m., the Committee will convene a closed session in order to protect patient privacy as the Committee tours the VA Health Care System. The Committee will reconvene in a closed session from 2:00 p.m. to 4:30 p.m. as it receives the Veterans' benefits briefing and tours the Veterans Benefits Administration staff from the Saint Louis Regional Benefit Office.

On the morning of April 18 from 9:00 a.m. to 11:00 a.m., the Committee will convene in open session at the Jefferson Barracks National Cemetery followed by a tour of the cemetery. The Committee will meet with key staff to discuss services, benefits, delivery challenges and successes. In the evening, the Committee will hold a Veterans Town Hall meeting beginning at 4:30 p.m., at the Harris-Stowe State University (HSSU) William L. Clay Sr. Early Childhood Center in the Professional Development Auditorium—Room204.

On the morning of April 19 from 8:30 a.m. to 12:00 p.m., the Committee will convene in open session at the VA Saint Louis Health Care System—John Cochran Division to conduct an exit briefing with leadership from the VA Saint Louis Health Care System, Saint Louis Regional Benefit Office, and Jefferson Barracks National Cemetery. In the afternoon from 1:00 p.m. to 4:00 p.m., the Committee will work on drafting recommendations for the annual report to the Secretary.

Sessions are open to the public, except when the Committee is conducting tours of VA facilities, participating in off-site events, and participating in workgroup sessions. Tours of VA facilities are closed, to protect from disclosure Veterans' information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Time will be allocated for receiving public comments on April 19, at 10 a.m. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come first serve basis. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official record. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority Veterans. Such comments should be sent to Ms. Juanita Mullen, Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or email at *Juanita.Mullen@va.gov.* For additional information about the meeting, please contact Ms. Juanita Mullen at (202) 461–6199.

Dated: April 5, 2018.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–07323 Filed 4–9–18; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 83 Tuesday,

No. 69 April 10, 2018

Part II

Environmental Protection Agency

40 CFR Parts 60 and 63

National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards: Petroleum Refinery Sector Amendments; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2010–0682; FRL–9976–00–OAR]

RIN 2060–AT50

National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards: Petroleum Refinery Sector Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) Refinery MACT 1 and Refinery MACT 2 regulations to clarify the requirements of these rules and to make technical corrections and minor revisions to requirements for work practice standards, recordkeeping and reporting. This action also proposes technical corrections for the New Source Performance Standards (NSPS) for Petroleum Refineries.

DATES: *Comments.* Comments must be received on or before May 25, 2018.

Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before May 10, 2018.

Public Hearing. If a public hearing is requested by April 16, 2018, then we will hold a public hearing on April 25, 2018 at the location described in the **ADDRESSES** section. The last day to pre-register in advance to speak at the public hearing will be April 23, 2018.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0682, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. *Regulations.gov* is our preferred method of receiving comments. However, other submission formats are accepted. To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2010–0682, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. See section I.C of this preamble for instructions on submitting CBI.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Public Hearing. If a public hearing is requested, it will be held at EPA Headquarters, EPA WJC East Building, 1201 Constitution Avenue NW, Washington, DC 20004. If a public hearing is requested, then we will provide details about the public hearing on our website at: *https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-risk-and-technology-review-and-new-source.* The EPA does not intend to publish another document in the **Federal Register** announcing any updates on the request for a public hearing. Please contact Virginia Hunt at (919) 541–0832 or by email at *hunt.virginia@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

The EPA will make every effort to accommodate all speakers who arrive and register. If a hearing is held at a U.S. government facility, individuals planning to attend should be prepared to show a current, valid state- or federal-approved picture identification to the security staff in order to gain access to the meeting room. An expired form of identification will not be permitted. Please note that the Real ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by a noncompliant state, you must present an additional form of identification to enter a federal facility. Acceptable alternative forms of identification include: Federal employee badge, passports, enhanced driver's licenses, and military identification cards. Additional information on the Real ID Act is available at *https://www.dhs.gov/real-id-frequently-asked-questions.* In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Brenda Shine, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3608; fax number: (919) 541–0516; and email address: *shine.brenda@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2010–0682. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0682. The EPA's policy is that all

comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. This type of information should be submitted by mail as discussed in section I.C of this preamble. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* 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. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AFPM American Fuel and Petrochemical Manufacturers
API American Petroleum Institute
AWP Alternative Work Practice
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
COMS continuous opacity monitoring system
CPMS continuous parameter monitoring system
CRU catalytic reforming unit
DCU delayed coking unit
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FCCU fluid catalytic cracking unit
FR Federal Register
HAP hazardous air pollutant(s)
HCN hydrogen cyanide
HON hazardous organic NESHAP
LEL lower explosive limit
MACT maximum achievable control technology
NESHAP national emission standards for hazardous air pollutants
NOCS Notification of Compliance Status
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OEL open-ended lines
OMB Office of Management and Budget
PDF portable document format
PM particulate matter
PRA Paperwork Reduction Act
PRD pressure relief device
RFA Regulatory Flexibility Act
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act

Organization of this Document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP, NSPS, and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992), the Petroleum Refineries—Catalytic Cracking (Fluid and Other) Units, Catalytic Reforming Units, and Sulfur Plant Units source category includes any facility engaged in producing gasoline, napthas, kerosene, jet fuels, distillate fuel oils, residual fuel oils, lubricants, or other products from crude oil or unfinished petroleum derivatives. This category includes the following refinery process units: Catalytic cracking (fluid and other) units, catalytic reforming units, and sulfur plant units. The Petroleum Refineries—Other Sources Not Distinctly Listed includes any facility engaged in producing gasoline, napthas, kerosene, jet fuels, distillate fuel oils, residual fuel oils, lubricants, or other products from crude oil or unfinished petroleum derivatives. This category includes the following refinery process units not listed in the Petroleum Refineries—Catalytic Cracking (Fluid and Other) Units, Catalytic Reforming Units, and Sulfur Plant Units source category. The refinery process units in this source category include, but are not limited to, thermal cracking, vacuum distillation, crude distillation, hydroheating/hydrorefining, isomerization, polymerization, lube oil processing, and hydrogen production.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Petroleum Refineries.	40 CFR part 63, subpart CC. 40 CFR part 63, subpart UUU. 40 CFR part 60, subpart Ja.	324110

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/petroleum-refinery-sector-risk-and-technology-review-and-new-source.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2010–0682).

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the 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 comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2010–0682.

II. Background

On December 1, 2015 (80 FR 75178), the EPA finalized amendments to the Petroleum Refinery NESHAP in 40 CFR part 63, subparts CC and UUU, referred to as Refinery MACT 1 and 2, respectively and the NSPS for petroleum refineries in 40 CFR part 60, subparts J and Ja. The final amendments to Refinery MACT 1 include a number of new requirements, such as those for maintenance vents, pressure relief devices (PRDs), delayed coking units (DCUs), fenceline monitoring, and flares. The final amendments to Refinery MACT 2 include revisions to the continuous compliance alternatives for catalytic cracking units and provisions specific to startup and shutdown of catalytic cracking units and sulfur recovery plants. The December 2015 action also finalized technical corrections and clarifications to Refinery NSPS subparts J and Ja to address issues raised by the American Petroleum Institute (API) in their 2008 and 2012 petitions for reconsideration of the final NSPS Ja rule that had not been previously addressed. These include corrections and clarifications to provisions for sulfur recovery plants, performance testing, and control device operating parameters.

In the process of implementing these new requirements, numerous questions and issues have been identified and we are proposing clarifications or technical amendments to address these questions and issues. These issues were raised in petitions for reconsideration and in separately issued letters from industry and in meetings with industry groups.

The EPA received three separate petitions for reconsideration. Two petitions were jointly filed by the API and American Fuel and Petrochemical Manufacturers (AFPM). The first of these petitions was filed on January 19, 2016, and requested an administrative reconsideration under section 307(d)(7)(B) of the Clean Air Act (CAA) of certain provisions of Refinery MACT 1 and 2, as promulgated in the December 2015 final rule. Specifically, API and AFPM requested that the EPA reconsider the maintenance vent provisions in Refinery MACT 1 for sources constructed on or before June 30, 2014; the alternate startup, shutdown, or hot standby standards for fluid catalytic cracking units (FCCUs) constructed on or before June 30, 2014, in Refinery MACT 2; the alternate startup and shutdown for sulfur recovery units constructed on or before June 30, 2014, in Refinery MACT 2; and the new catalytic reforming units (CRUs) purging limitations in Refinery MACT 2. The request pertained to providing and/or clarifying the compliance time for these sources. Based on this request and additional information received, the EPA issued a proposal on February 9, 2016 (81 FR 6814), and a final rule on July 13, 2016 (81 FR 45232), fully responding to the January 19, 2016, petition for reconsideration. The second petition from API and AFPM was filed on February 1, 2016, and outlined a number of specific issues related to the work practice standards for PRDs and flares, and the alternative water overflow provisions for DCUs, as well as a number of other specific issues on other aspects of the rule. The third petition was filed on February 1, 2016, by Earthjustice on behalf of Air Alliance Houston, California Communities Against Toxics, the Clean Air Council, the Coalition for a Safe Environment, the Community In-Power and Development Association, the Del Amo Action Committee, the Environmental Integrity Project, the Louisiana Bucket Brigade, the Sierra Club, the Texas Environmental Justice Advocacy Services, and Utah Physicians for a Healthy Environment. The Earthjustice petition claimed that several aspects of the revisions to Refinery MACT 1 were not proposed, and, thus, the public was precluded from commenting on them during the public comment period, including: (1) Work practice standards for PRDs and flares; (2) alternative water overflow provisions for DCUs; (3) reduced monitoring provisions for fenceline monitoring; and (4) adjustments to the risk assessment to account for these new work practice standards. On June 16, 2016, the EPA sent letters to petitioners granting reconsideration on issues where petitioners claimed they had not been provided an opportunity to comment. These petitions and letters granting reconsideration are available for review in the rulemaking docket (see Docket Item Nos. EPA–HQ–OAR–2010–0682–0860, EPA–HQ–OAR–2010–0682–0891 and EPA–HQ–OAR–2010–0682–0892).

On October 18, 2016 (81 FR 71661), the EPA proposed for public comment the issues for which reconsideration was granted in the June 16, 2016, letters. The EPA identified five issues in the proposal: (1) The work practice standards for PRDs; (2) the work practice standards for emergency flaring events; (3) the assessment of risk as modified based on implementation of these PRD and emergency flaring work practice standards; (4) the alternative work practice (AWP) standards for DCUs employing the water overflow design; and (5) the provision allowing refineries to reduce the frequency of fenceline monitoring at sampling locations that consistently record benzene concentrations below 0.9 micrograms per cubic meter. In that notice, the EPA also proposed two minor clarifying amendments to correct

a cross referencing error and to clarify that facilities complying with overlapping equipment leak provisions must still comply with the PRD work practice standards in the 2015 final rule.

The February 1, 2016, API and AFPM petition for reconsideration included a number of recommendations for technical amendments and clarifications that were not specifically addressed in the October 18, 2016, proposal.[1] In addition, API and AFPM asked for clarification on various requirements of the final amendments in a July 12, 2016, letter.[2] The EPA addressed many of the clarification requests from the July 2016 letter and the petition for reconsideration in a letter issued on April 7, 2017.[3] API and AFPM also raised additional issues associated with the implementation of the final rule amendments in a March 28, 2017, letter to the EPA[4] and provided a list of typographical errors in the rule in a January 27, 2017, meeting[5] with the EPA. On January 10, 2018, AFPM submitted a letter containing a comparison of the electronic CFR, CFR, the **Federal Register** documents, and the redline versions of the December 2015 and October 2016 amendments to the Refinery Sector Rule noting discrepancies providing suggestions as to how these discrepancies should be resolved.[6] These items are located in Docket ID No. EPA–HQ–OAR–2016–0682. This proposal addresses many of the issues and clarifications identified by API and AFPM in their February 2016 petition for reconsideration and their subsequent communications with the EPA.

[1] Supplemental Request for Administrative Reconsideration of Targeted Elements of EPA's Final Rule ''Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards; Final Rule,'' Howard Feldman, API, and David Friedman, AFPM. February 1, 2016. Docket Item No. EPA–HQ–OAR–2010–0682–0892.

[2] Letter from Matt Todd, API, and David Friedman, AFPM, to Penny Lassiter, EPA. July 12, 2016. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

[3] Letter from Peter Tsirigotis, EPA, to Matt Todd, API, and David Friedman, AFPM. April 7, 2017. Available at: *https://www.epa.gov/stationary-sources-air-pollution/december-2015-refinery-sector-rule-response-letters-qa.*

[4] Letter from Matt Todd, API, and David Friedman, AFPM, to Penny Lassiter, EPA. March 28, 2017. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

[5] Meeting minutes for January 27, 2017, EPA meeting with API. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

[6] David Friedman, ''Comparison of Official CFR and e-CFR Postings Regarding MACT CC/UUU and NSPS Ja Postings.'' Message to Penny Lassiter and Brenda Shine. January 10, 2018. Email.

III. What actions are we proposing?

A. Clarifications and Technical Corrections to Refinery MACT 1

1. Definitions

We are proposing to clarify the Refinery MACT 1 rule requirements by revising several definitions and adding one definition.

a. Flare Purge Gas

In their March 28, 2017, letter seeking additional clarifications, API and AFPM noted that the definition of ''flare purge gas'' could be interpreted to preclude the flaring of purge gas that may be introduced for safety reasons other than to prevent oxygen infiltration, such as to prevent freezing at the flare tip.[7] They requested that the EPA revise the definition to include gas necessary for other safety reasons. In the definition of the term, ''flare purge gas,'' we included a reference to a primary reason flare purge gas is added at the flare tip, namely to prevent oxygen infiltration, but did not intend for refiners to interpret this as not allowing them to add flare purge gas for other safety reasons. To reflect our intent, we are proposing to revise the definition to clarify that flare purge gas may also include gas needed for other safety reasons.

b. Flare Supplemental Gas

In their February 1, 2016, petition for reconsideration, API and AFPM requested a change to the definition of ''flare supplemental gas'' on the basis that the definition's reference to ''all gas that improves the combustion in the flare combustion zone'' could be interpreted to include assist air and assist steam. API and AFPM noted, in contrast, that the way the term ''flare supplemental gas'' is used throughout the rule appears to only include gases that increase combustion efficiency by raising the heat content of the combustion zone. This is evidenced by the fact that the definition of flare vent gas specifically includes flare supplemental gas and specifically excludes total steam or assist air. Further, they claimed that the rule incorrectly assumes that supplemental gas is always natural gas, and uses the term ''natural gas'' in the equations, and, thus, limiting a refiner's ability to use fuel gas as supplemental gas.

We agree that, as written, the definition could be misinterpreted and we are proposing to revise the definition of ''flare supplemental gas'' at 40 CFR 63.641. We also agree that we did not intend to limit flare supplemental gas to only natural gas, so throughout the rule, we are proposing to replace all instances of the term ''supplemental natural gas'' with the defined term ''flare supplemental gas.'' The specific instances of these replacements are provided in Table 2 of this preamble (see section III.A.7).

[7] API and AFPM, March 28, 2017.

c. Pressure Relief Device and Relief Valve

In their February 1, 2016, petition for reconsideration, API and AFPM noted that Refinery MACT 1 interchangeably uses the term ''relief valve'' and the term ''pressure relief device,'' and instead should be using the term ''pressure relief device'' throughout because a relief valve is only one type of pressure relief device. They requested that a definition of pressure relief device be added to Refinery MACT 1 to clarify that it includes different types of relief devices, such as relief valves and rupture disks. We agree, and we are proposing a definition of pressure relief device, proposing to revise the definition of relief valve, and proposing to consistently use the term ''pressure relief device'' throughout the rule.

d. Reference Control Technology for Storage Vessels

In their February 1, 2016, petition for reconsideration, API and AFPM noted that the Refinery MACT 1 storage vessel provisions at 40 CFR 63.660 require Group 1 storage vessels with floating roofs to comply with all the requirements of 40 CFR part 63, subpart WW, including requirements for fitting controls. However, the Refinery MACT 1 definition of ''reference control technology for storage vessels'' at 40 CFR 63.641 omits reference to these fitting requirements. They requested that the EPA revise the definition in 40 CFR 63.641 of Refinery MACT 1 to be consistent with the Refinery MACT 1 requirements for storage vessels at 40 CFR 63.660. They also noted that the term, ''reference control technology for storage vessels,'' is never actually used in the Refinery MACT 1 storage vessel provisions at 40 CFR 63.660. We agree and are revising the definition of reference control technology for storage vessels to be consistent with the storage vessel rule requirements at 40 CFR 63.660. As it relates to storage vessels, the only use of the term, ''reference control technology,'' is in the Refinery MACT 1 provisions pertaining to emissions averaging in 40 CFR 63.652.

2. Miscellaneous Process Vent Provisions

Petitioners requested a number of amendments and clarifications to the

requirements identifying and managing the subset of miscellaneous process vents that result from maintenance activities.

a. Notice of Compliance Status (NOCS) Report

In their March 28, 2017, letter, API and AFPM noted that the miscellaneous process vent provision at 40 CFR 63.643(c) does not require an owner or operator to designate a maintenance vent as a Group 1 or Group 2 miscellaneous process vent. However, they stated that the reporting requirements at 40 CFR 63.655(f)(1)(ii) are unclear as to whether a NOCS report is needed for maintenance vents. We did not intend for the maintenance vents to be included in the NOCS report since we do not require the owner or operator to designate a maintenance vent as a Group 1 or Group 2 miscellaneous process vent. The rule has separate requirements for characterizing, recording, and reporting maintenance vents in 40 CFR 63.655 (g)(13) and (h)(12); therefore, it is not necessary to identify each and every place where equipment may be opened for maintenance in a NOCS report. To clarify, we are proposing to add language to 40 CFR 63.643(c) to explicitly state that maintenance vents need not be identified in the NOCS report.

b. Availability of a Pure Hydrogen Supply for Compliance With Maintenance Vent Provisions

Under 40 CFR 63.643(c) an owner or operator may designate a process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed, or placed into service. Facilities generally must comply with one of three conditions prior to venting maintenance vents to the atmosphere (40 CFR 63.643(c)(1)(i–iii)). However, 40 CFR 63.643(c)(1)(iv) of the rule currently provides some flexibility for maintenance vents associated with equipment containing pyrophoric catalyst (*e.g.,* hydrotreaters and hydrocrackers) at refineries that do not have a pure hydrogen supply. This is because catalytic reformer hydrogen (the other primary hydrogen source) contains appreciable concentrations of light hydrocarbons which limits the ability to reduce the lower explosive limit (LEL) to 10 percent or less. For these vents, the LEL of the vapor in the equipment must be less than 20 percent, except for one event per year not to exceed 35 percent.

API and AFPM requested that the EPA reconsider the standards in 40 CFR 63.643(c)(1)(iv) for equipment containing pyrophoric catalyst, *e.g.,* hydrotreaters or hydrocrackers; in particular, they requested the EPA to re-examine the phrase ''. . . at refineries with a pure hydrogen supply.'' Specifically, they pointed out that many facilities have a pure hydrogen supply that is not used at hydrotreaters or hydrocrackers for a variety of reasons, including the fact that these units may be far removed from the on-site pure hydrogen production unit and piping the pure hydrogen supply to the unit is expensive. In addition, a facility could have a pure hydrogen production unit that is idled or shut down because a catalytic reforming unit produces adequate hydrogen for the facility. Petitioners suggested that the alternative limit for equipment containing pyrophoric catalyst should be provided whenever an active supply of pure hydrogen is not available at the unit.

As pyrophoric units (*e.g.,* hydrocrackers and hydrotreaters) require hydrogen to operate, at the time we finalized the amendments, we expected that pyrophoric units at a refinery with pure hydrogen supply would each have a pure hydrogen supply. That is, we did not specifically consider that some pyrophoric units at the refinery would have a pure hydrogen supply and others would not. We established this requirement under the authority of CAA section 112 (c)(2) and (c)(3) to address emissions from maintenance events which had been exempted from the process vent standards as episodic and non-routine emission sources in order to ensure that the maximum achievable control technology (MACT) included standards that apply at all times. We based these work practices, including those applicable to units without a pure hydrogen supply, on practices generally employed by the best performers.

We reviewed the recent comments received and the additional information provided by API and AFPM.[8] The information confirmed that a single refinery may have many pyrophoric units, some that have a pure hydrogen supply and some that do not have a pure hydrogen supply. Thus, our assumption at the time we issued the final rule regarding which units would use a pure hydrogen supply is incorrect. Thus, we are proposing to revise the regulations such that units without a pure hydrogen supply, even though there may be a pure hydrogen supply somewhere else at the facility, could comply with the standard in 40 CFR 63.643(c)(1)(iv).

Specifically, we are proposing to amend 40 CFR 63.643(c)(1)(iv) to read (new text highlighted in bold): ''If the maintenance vent is associated with equipment containing pyrophoric catalyst (*e.g.,* hydrotreaters and hydrocrackers) and a pure hydrogen supply is not available at the equipment at the time of the startup, shutdown, maintenance, or inspection activity, the LEL of the vapor in the equipment must be less than 20 percent, except for one event per year not to exceed 35 percent.''

c. Control Requirements for Maintenance Vents

Paragraph 63.643(a) specifies that Group 1 miscellaneous process vents must be controlled by 98 percent or to 20 parts per million by volume or to a flare meeting the requirements in 40 CFR 63.670. This paragraph also states in the second sentence that requirements for maintenance vents are specified in 40 CFR 63.643(c), ''and the owner or operator is only required to comply with the requirements in § 63.643(c).'' Paragraphs (c)(1) through (3) then specify requirements for maintenance vents. Paragraph (c)(1) requires that equipment must be depressured to a control device, fuel gas system, or back to the process until one of the conditions in paragraph (c)(1)(i) through (iv) is met. In reviewing these rule requirements, the EPA noted that we did not specify that the control device in (c)(1) must also meet requirements in paragraph (a). The second sentence in 40 CFR 63.643(a) could be misinterpreted to mean that a facility complying with the maintenance vent provisions in 40 CFR 63.643(c) must only comply with the requirements in paragraph (c) and not the control requirements in paragraph (a) for the control device referenced by paragraph (c)(1). The second sentence was meant to clarify that there is no obligation for characterizing and reporting miscellaneous process vents as Group 1 and Group 2 if these are maintenance vents. However, we inadvertently did not specify control device requirements for the control referenced by paragraph (c)(1) in paragraph (c). In omitting these requirements, we did not intend that the control requirement for maintenance vents prior to atmospheric release would not be compliant with Group 1 controls as specified under 40 CFR 63.643(a). These control requirements

[8] Letter from Matt Todd, API, and David Friedman, AFPM, to Penny Lassiter, EPA. August 1, 2017. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

are consistent with control requirements for other Group 1 miscellaneous process vents. In order to clarify our intent, we are proposing to amend 40 CFR 63.643(c)(1) to read: ''Prior to venting to the atmosphere, process liquids are removed from the equipment as much as practical and the equipment is depressured to a control device meeting requirements in paragraphs (a)(1) or (2) of this section, a fuel gas system, or back to the process until one of the following conditions, as applicable, is met.''

d. Additional Maintenance Vent Alternative for Equipment Blinding

We received several requests to address equipment blinding in the maintenance venting provisions of 40 CFR 63.643(c). Equipment blinding is conducted to isolate equipment for maintenance activities. During the installation of the blind flange, a flanged connection in the equipment piping must be opened, allowing vapors in the equipment to be released to the atmosphere. Additionally, while the piping is open, a small amount of purge gas is typically used to ensure air (oxygen) does not enter the process equipment. The introduction of purge gas also results in emissions.

In their February 1, 2016, petition for reconsideration, API and AFPM requested clarification that emissions that occur when ''opening a flange on a CRU reactor to install a blind'' are considered emissions from a maintenance vent rather than a CRU vent. Additionally, API provided separate submissions with example scenarios and emissions data for CRU vents to the EPA on September 11, 2017,[9] and January 16, 2018.[10] In the response to comment document supporting the December 2015 final rule (see Section 10.2 of Docket Item No. EPA–HQ–OAR–2010–0682–0802), we noted that only ''catalytic reformer regeneration vents'' are excluded from the definition of miscellaneous process vents (MPV) and thereby excluded from using the maintenance vent provisions. However, we also indicated that other CRU vents could meet the definition of a maintenance vent (*i.e.,* an MPV that is only used as a result of startup, shutdown, maintenance, or inspection of equipment), and that those vents could comply with the maintenance vent provisions in 40 CFR 63.643(c). Specifically, we noted that the entire CRU is shut down for semi-regenerative units and that the maintenance vent provisions may apply in this case. We are clarifying in this preamble that vents (separate from the depressurization and purge cycle vent(s) covered under Refinery MACT 2) associated with opening a flange to install a blind after complete CRU shutdown may comply with the maintenance vent provisions.

In their March 28, 2017, letter, API and AFPM raised additional concerns with the maintenance vent requirements and the need to address the installation of blinds to isolate equipment for certain maintenance activities. They claimed there may be situations where refiners may not be able to meet the requirements in 40 CFR 63.643(c)(1)(i) through (iv) for maintenance vents, but they must be able to conduct these activities. For example, they may not be able to achieve the 10-percent LEL criterion in 40 CFR 63.643(c)(1)(i) prior to atmospheric venting because a valve used to isolate the equipment will not seat fully so organic material may continually leak into the isolated equipment.

We agree that installing a blind to prepare equipment for maintenance may be necessary and may not currently meet the conditions specified in 40 CFR 63.643(c)(1). To limit the emissions during the blind installation, we are proposing an additional condition addressed by the maintenance vent provisions as 40 CFR 63.643(c)(1)(v). We are proposing to require depressuring the equipment to 2 pounds (lb) per square inch gauge (psig) or less prior to equipment opening and maintaining pressure of the equipment where purge gas enters the equipment at or below 2 psig during the blind flange installation. The low allowable pressure limit will reduce the amount of process gas that will be released during the initial equipment opening and ongoing 2-psig pressure requirement will limit the rate of purge gas use. Together, these requirements will limit the emissions during blind flange installation and will result in comparable emissions allowed under the existing maintenance vent provisions. While we acknowledge that there may be circumstances where equipment blinding prior to achieving the 10-percent LEL criterion may be necessary, we expect these situations to be rare and that the owner or operator would remedy the situation as soon as practical (*e.g.,* replace the isolation valve or valve seat during the next turnaround in the example provided above). Therefore, at 40 CFR 63.643(c)(1)(v), we are proposing that this alternative maintenance vent limit be used under those situations where the primary limits are not achievable and blinding of the equipment is necessary. We are proposing to require refinery owners or operators to document each circumstance under which this provision is used, providing an explanation why the other criteria could not be met prior to equipment blinding and an estimate of the emissions that occurred during the equipment blinding process.

e. Recordkeeping for Maintenance Vents on Equipment Containing Less Than 72 Pounds (lbs) of Volatile Organic Compounds (VOC)

Under 40 CFR 63.643(c) an owner or operator may designate a process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed, or placed into service. The rule specifies that prior to venting a maintenance vent to the atmosphere, process liquids must be removed from the equipment as much as practical and the equipment must be depressured to a control device, fuel gas system, or back to the process until one of several conditions, as applicable, is met (40 CFR 63.643(c)(1)). One condition specifies that equipment containing less than 72 lbs/day of volatile organic compounds (VOC) can be depressured directly to the atmosphere provided that the mass of VOC in the equipment is determined and provided that refiners keep records of the process units or equipment associated with the maintenance vent, the date of each maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time of vent opening. Therefore, each maintenance vent opening would be documented on an event-basis.

Industry petitioners noted that there are numerous routine maintenance activities, such as replacing sampling line tubing or replacing a pressure gauge, that involve potential release of very small amounts of VOC, often less than 1 lb per day, that are well below the 72 lbs/day of VOC threshold provided in 40 CFR 63.643(c)(1)(iii). They claimed that documenting each individual event is burdensome and unnecessary. We agree that documentation of each release from maintenance vents which serve equipment containing less than 72 lbs of VOC is not necessary, as long as there is a demonstration that the event is compliant with the requirement that the equipment contains less than 72 lbs of VOC. We are, therefore, proposing to revise these provisions to require a record demonstrating that the total

[9] Matt Todd, ''Examples.'' Message to Brenda Shine. September 11, 2017. Email.

[10] Karin C. Ritter, ''API Submitting: Flare Flow Meter Accuracy White Paper & CRU Data & Summary.'' Message to Penny Lassiter and Brenda Shine. January 16, 2018. Email.

quantity of VOC in the equipment based on the type, size, and contents is less than 72 lbs of VOC at the time of the maintenance vent opening. However, event-specific records are still required for each maintenance vent opening for which the deinventory procedures were not followed or for which the equipment opened exceeds the type and size limits established in the records for equipment containing less than 72 pounds of VOC.

f. Bypass Monitoring for Open-Ended Lines (OEL)

API and AFPM [11] requested clarification of the bypass monitoring provisions in 40 CFR 63.644(c) for open-ended lines (OEL). This provision exempts from bypass monitoring components subject to the Refinery MACT 1 equipment leak provisions in 40 CFR 63.648. Noting that the provisions in 40 CFR 63.648 only apply to components in organic hazardous air pollutant (HAP) service (*i.e.,* greater than 5-weight percent HAP), API and AFPM asked whether the EPA also intended to exempt open-ended valves or lines that are in VOC service (less than 5-weight percent HAP) and are capped and plugged in compliance with the standards in NSPS subpart VV or VVa or the Hazardous Organic NESHAP (HON; 40 CFR part 63, subpart H) that are substantively equivalent to the Refinery MACT 1 equipment leak provisions in 40 CFR 63.648. Petitioners noted that OELs in conveyances carrying a Group 1 miscellaneous process vent could be in less than 5-weight percent HAP service, but could still be capped and plugged in accordance with another rule, such as NSPS subpart VV or VVa or the HON. The EPA agrees that, because the use of a cap, blind flange, plug, or second valve for an open-ended valve or line is sufficient to prevent a bypass, the bypass monitoring requirements in 40 CFR 63.644(c) are redundant with NSPS subpart VV in these cases. We are proposing to amend 40 CFR 63.644(c) to make clear that open-ended valves or lines that are capped and plugged sufficiently to meet the standards in NSPS subpart VV at 40 CFR 60.482–6(a)(2), (b) and (c), are exempt from the bypass monitoring in 40 CFR 63.644(c).

3. Pressure Relief Device Provisions

In their February 1, 2016, petition, API and AFPM sought reconsideration of certain aspects of the requirements for PRDs in 40 CFR 63.648(j)(1) through (5). As finalized, 40 CFR 63.648(j)(1) provides operating requirements for PRDs in organic HAP gas or vapor service. Section 63.648(j)(2) specifies pressure release requirements for PRDs in organic HAP gas or vapor service. Section 63.648(j)(3) (discussed in greater detail below) specifies requirements for pressure release management for all PRDs in organic HAP service. Sections 63.648(j)(4) and (j)(5) provide exemptions from the requirements in (j)(1), (2), and (3) if all releases and potential leaks from a PRD are routed through a compliant control device or if the PRDs meet certain criteria.

As noted above, 40 CFR 63.648(j)(3) specifies requirements for pressure release management for all PRDs in organic HAP service, specifically: (j)(3)(i) provides requirements for monitoring affected PRDs; (j)(3)(ii) lists options for three redundant release prevention measures that must be applied to affected PRDs; (j)(3)(iii) requires root cause analysis and corrective action if an affected PRD releases to the atmosphere as a result of a pressure release event; (j)(3)(iv) stipulates how the facility must determine the number of release events during the calendar year for each affected PRD; and (j)(3)(v) specifies what release events are deemed a violation of the pressure release management work practice standards. Section 63.648(j)(5) identifies the types of PRDs exempted from pressure release management requirements in (j)(3).

a. Clarification of Requirements for PRD ''in organic HAP service''

Regarding the applicability of the PRD requirements in 40 CFR 63.648(j), API and AFPM requested that we clarify whether releases listed in paragraph 40 CFR 63.648(j)(3)(v) are limited to PRDs ''in organic HAP service.'' The heading for 40 CFR 63.648(j)(3)(v), *i.e.,* 40 CFR 63.648(j)(3) unambiguously states that the ''requirements specified in paragraphs (j)(3)(i) through (v) of this section'' apply to ''all pressure relief devices in organic HAP service'' and reflects the Agency's intent when promulgating these provisions. Subparagraphs (j)(3)(i) through (iv) use the phrase ''affected pressure relief device,'' and for consistency and clarity, we are proposing to add that phrase—''affected pressure relief device''— to paragraph (j)(3)(v) to clarify that the requirements in (j)(3)(v) also apply only to releases from PRDs that are in organic HAP service.

We also are proposing to amend the introductory text in paragraph (j). Currently, paragraph (j) states ''Except as specified in paragraphs (j)(4) and (5) of this section, the owner or operator must also comply with the requirements specified in paragraph (j)(3) of this section for all pressure relief devices.'' For consistency and clarity, we are proposing to add ''in organic HAP service'' to the end of this sentence to clearly indicate that the word ''all'' includes organic HAP liquid service PRDs.

b. Redundant Release Prevention Measures in 40 CFR 63.648(j)(3)(ii)

As stated earlier, section (j)(3)(ii) lists options for three redundant release prevention measures that must be applied to affected PRDs. The prevention measures in (j)(3)(ii) include: (A) Flow, temperature, level, and pressure indicators with deadman switches, monitors, or automatic actuators; (B) documented routine inspection and maintenance programs and/or operator training (maintenance programs and operator training may count as only one redundant prevention measure); (C) inherently safer designs or safety instrumentation systems; (D) deluge systems; and (E) staged relief system where initial pressure relief valve (with lower set release pressure) discharges to a flare or other closed vent system and control device.

The API and AFPM February 1, 2016, petition for reconsideration requested clarification as to whether two prevention measures can be selected from the list in 40 CFR 63.648(j)(3)(ii)(A). The rule does not state that the measures in paragraph (j)(3)(ii)(A) are to be considered a single prevention measure. These measures were grouped in subparagraph A because of similarities they have; however, they are separate measures. For example, a liquid level monitor discontinues the feed to the unit when the liquid level exceeds a set point and an overhead pressure monitor discontinues the feed to the unit if the pressure exceeds a certain level. If these measures operate independently, the EPA considers them two separate redundant prevention measures—that is, if the pressure exceeds a certain set point, then the feed to the unit is discontinued regardless of the liquid level and vice a versa. If both the pressure limit and the liquid level must be exceeded to trigger shutting off the feed to the unit, then that would be considered a single prevention measure. We also note that there may be occasions where the same type of monitor is used, but the parameter monitored is different. For example, a temperature monitor on the feed to a unit may be used to trigger feed shut-off to the unit, and a separate temperature monitor may be used for the vessel

[11] API and AFPM, February 1, 2016, and March 28, 2017.

overhead that also triggers feed shut-off to the unit. As the temperature monitors are not monitoring the same process stream and the actions of the monitors are independent, these systems would be considered two separate ''redundant prevention measures.'' To clarify this, we are proposing to revise 40 CFR 63.648(j)(3)(ii)(A) to make clear that independent, non-duplicative systems count as separate redundant prevention measures.

c. Pilot-Operated PRD and Balanced Bellows PRD

In a letter dated March 28, 2017, API and AFPM requested clarification on whether pilot-operated PRDs are required to comply with the pressure release management provisions of 40 CFR 63.648(j)(1) through (3).

A pilot-operated or balanced bellows PRD is often used to relieve back pressure so that the main PRD with which it is associated can be routed to a control device, back into the process or to the fuel gas system. Pilot-operated and balanced bellows PRDs are primarily used for pressure relief when the back pressure of the discharge vent may be high or variable. Conventional pressure relief devices act on a differential pressure between the process gas and the discharge vent. If the discharge vent pressure increases, the vessel pressure at which the PRD will open increases, potentially leading to vessel over-pressurization that could cause vessel failure. For systems that have high or variable back pressure, either balanced bellows or pilot-operated PRDs are used. Balanced bellows PRDs use a bellow to shield the pressure relief stem and top portion of the valve seat from the discharge vent pressure. A balanced bellows PRD will not discharge gas to the atmosphere during a release event, except for leaks through the bellows vent due to bellows failure or fatigue. Pilot-operated PRDs use a small pilot safety valve that discharges to the atmosphere to effect actuation of the main valve or piston, which then discharges to a control device. Balanced bellows or pilot operated PRDs are a reasonable and necessary means to safely control the primary PRD release.

Pilot-operated and balanced bellows PRDs are subject to the requirements at 40 CFR 63.648(j)(1) and (2) to ensure the PRDs do not leak and properly reseat following a release. However, based on our understanding of pilot-operated PRDs (see memorandum, ''Pilot-operated PRD,'' in Docket ID No. EPA–HQ–OAR–2010–0682) and balanced bellows PRDs, we are proposing that these PRDs are not subject to the requirements of 40 CFR 63.648(j)(3).

Section 63.648(j)(5) identifies the types of PRDs not subject to the pressure release management requirements in (j)(3). These include PRDs that do not have the potential to emit 72 lbs/day or more of VOC based on the valve diameter, the set release pressure, and the equipment contents (40 CFR 63.648(j)(5)(v)). In most cases, we expect that pilot-operated PRDs would release less than 72 lbs of VOC/day. However, this provision does not apply to all pilot vents because some have the potential to emit greater than 72 lbs/day of VOC. Even for releases greater than 72 lbs/day of VOC, we agree that the root cause analysis and corrective action is not necessary because the main release vent is not an atmospheric vent, but is instead routed to the flare header. Unless this event contributes to a flaring event resulting in visible emissions or velocity exceedance, the flare is operating as intended and controlling the PRD release. Although we expect pilot vent discharges will release less than 72 lbs/day of VOC, to ensure these vent discharges are indeed small, and to encourage low-emitting (*e.g.,* non-flowing) pilot-operated PRDs, we are proposing to amend the reporting requirements at 40 CFR 63.655(g)(10) and the recordkeeping requirements at 40 CFR 63.655(i)(11) to retain the requirements to report and keep records of each release to the atmosphere through the pilot vent that exceeds 72 lbs/day of VOC, including the duration of the pressure release through the pilot vent and the estimate of the mass quantity of each organic HAP release.

4. Delayed Coking Unit Decoking Operation Provisions

The provisions in 40 CFR 63.657(a) require owners or operators of DCU to depressure each coke drum to a closed blowdown system until the coke drum vessel pressure or temperature meets the applicable limits specified in the rule (2 psig or 220 degrees Fahrenheit for existing sources). Special provisions are provided in 40 CFR 63.657(e) and (f) for DCU using ''water overflow'' or ''double-quench'' method of cooling, respectively. According to 40 CFR 63.657(e), the owner or operator of a DCU using the ''water overflow'' method of coke cooling must hardpipe the overflow water (*i.e.,* via an overhead line) or otherwise prevent exposure of the overflow water to the atmosphere when transferring the overflow water to the overflow water storage tank whenever the coke drum vessel temperature exceeds 220 degrees Fahrenheit. The provision in 40 CFR 63.657(e) also provides that the overflow water storage tank may be an open or fixed-roof tank provided that a submerged fill pipe (pipe outlet below existing liquid level in the tank) is used to transfer overflow water to the tank.

In the October 18, 2016, reconsideration proposal, we opened the provisions in 40 CFR 63.657(e) for public comment, but we did not propose to amend the requirements. In response to the October 18, 2016, reconsideration proposal, we received several comments regarding the provisions in 40 CFR 63.657(e) for DCU using the water overflow method of coke cooling. API and AFPM wanted clarification that the water overflow requirements in 40 CFR 63.657(e) are only applicable if the primary pressure or temperature limits in 40 CFR 63.657(a) were not met prior to overflowing any water. We agree that an owner or operator of a DCU with a water overflow design does not need to comply with the provisions in 40 CFR 63.657(e) unless they cannot comply with the primary pressure or temperature limits in 40 CFR 63.657(a) prior to overflowing any water. However, if water overflow is used before the primary pressure or temperature limits in 40 CFR 63.657(a) are met, then the owner or operator must use ''controlled'' water overflow until the applicable temperature limit is achieved. This is required because the primary pressure limits are based on the vessel pressure, which is the pressure of the gas at the top of the coke drum, and once the water starts to overflow, we do not consider the pressure in the liquid filled overhead line to be representative of the DCU vessel pressure. We are proposing to clarify these points in 40 CFR 63.657(e).

In addition, environmental petitioners questioned whether the submerged fill requirement would effectively reduce emissions if gas is entrained into the overflow water leaving the coke drum such that the gas could then be emitted to the air out of the overflow water storage tank. We reviewed schematics of water overflow design DCU and found that a typical water overflow DCU uses a separator to prevent gas entrainment with the overflow water.[12] The overhead gas from the separator is routed to the DCU's closed blowdown system. The liquids accumulate at the bottom of the separator and are then routed to a storage vessel. We do not have information on the design of all

[12] Email correspondence from Dave Pavlich, Phillips 66, to Brenda Shine, EPA. March 6, 2017. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

water overflow DCUs. If there are DCUs that do not use a separator, it is possible to entrain gases with the DCU water overflow and the submerged fill requirement would not effectively reduce emissions from the overflow water storage tank if gas is entrained in the water overflow. Therefore, we are also proposing to add provisions to 40 CFR 63.657(e) requiring the use of a separator or disengaging device operated in a manner to prevent entrainment of gases from the coke drum vessel to the overflow water storage tank. Gases from the separator must be routed to a closed vent blowdown system or otherwise controlled following the requirements for a Group 1 miscellaneous process vent. As separators appear to be an integral part of the water overflow system design, we are not projecting any capital investment or additional operating costs associated with this proposed amendment.

5. Fenceline Monitoring Provisions

We are proposing several amendments to the fenceline monitoring provisions in Refinery MACT 1. Many of the proposed revisions to the fenceline monitoring provisions are related to requirements for reporting monitoring data.

The December 1, 2015, final rule established provisions for monitoring fugitive emissions at refinery fencelines (40 CFR 63.658). Under the fenceline monitoring provisions, an owner/operator must monitor benzene concentrations around the perimeter (fenceline) of their facility using a network of passive air monitors that contain sorbent tubes (40 CFR 63.658(c)). Facilities are required to collect the tubes and analyze them for benzene every 2 weeks (40 CFR 63.658(e)), but may request an alternative test method for collecting and/or analyzing samples (40 CFR 63.658(k)). Facilities must then calculate the difference in the highest and lowest 2-week benzene concentrations reported at the facility fenceline, called the Δc (40 CFR 63.658(f)). If the annual rolling average Δc exceeds an action level of 9 micrograms per cubic meter ($\mu g/m^3$) benzene (40 CFR 63.658(f)(3)), the facility must conduct a root cause analysis and implement initial corrective action (40 CFR 63.658(g)). If the annual rolling Δc value for the next 2-week sampling period after the initial corrective action is greater than 9 $\mu g/m^3$, or if all corrective action measures identified require more than 45 days to implement, the owner or operator must develop a corrective action plan (40 CFR 63.658(h)).

The December 1, 2015, final rule included new EPA Methods 325A and B specifying monitor siting and quantitative sample analysis procedures. Method 325A requires an additional monitor be placed near known VOC emission sources if the VOC emissions source is located within 50 meters of the monitoring perimeter and the source is between two monitors. The December 1, 2015, final rule at 40 CFR 63.658(c)(1) provides ''known sources of VOCs . . . means a wastewater treatment unit, process unit, or any emission source requiring control according to the requirements of this subpart, including marine vessel loading operations.'' In their February 1, 2016, petition for reconsideration, API and AFPM recommended that the EPA exclude sources requiring control under the miscellaneous process vent requirements of 40 CFR 63.643 and the equipment leak requirements of 40 CFR 63.648 from the known sources of VOC specified in 40 CFR 63.658(c)(1) so that these emission sources would not trigger the need for additional fenceline monitors. In response, we are proposing an alternative to the additional monitor siting requirement for pumps, valves, connectors, sampling connections, and open-ended lines sources that are actively monitored monthly using audio, visual, or olfactory means and quarterly using Method 21 or the AWP. We believe this is reasonable because these sources may be insignificant and, under these circumstances, the timeframe for discovery of a leak (1 month to 3 months) and repair (within 15 days of discovery) is consistent with the timeframe needed to analyze a passive monitor sample (45 days) and complete the initial root cause analysis and corrective action (45 days after discovery). We consider this requirement to be an adequate alternative to the additional monitor requirement.

In their February 1, 2016, petition for reconsideration, API and AFPM suggested that if the Δc for the 2-week sampling period following an exceedance of the annual average Δc action level is 9 $\mu g/m^3$ or less, then appropriate corrective action measures may be assumed to already be implemented and the root cause analysis and corrective action analysis does not need to be performed. We are clarifying in this preamble that if a root cause analysis was performed and corrective action measures were implemented prior to the exceedance of the annual average Δc action level, then these documented actions can be used to fulfill the root cause analysis and corrective action requirements in 40 CFR 63.658(g) and recordkeeping in 40 CFR 63.655(i)(8)(viii).

In addition, we are proposing a revision to the reporting requirements for the fenceline data in 40 CFR 63.655(h)(8). Consistent with requests from API and AFPM in their February 1, 2016, petition for reconsideration, we are proposing that the quarterly reports are to cover calendar year quarters (*i.e.,* Quarter 1 is from January 1 through March 31; Quarter 2 is from April 1 through June 30; Quarter 3 is from July 1 through September 30; and Quarter 4 is from October 1 through December 31) rather than being directly tied to the date compliance monitoring began. This proposed change will simplify reporting by putting all refinery reports on the same schedule and reducing confusion regarding when refiners are required to report, especially if they own more than one facility.

We are also proposing several measures that would reduce burden and clarify reporting associated with collecting and analyzing quality assurance/quality control samples (field blanks and duplicates) associated with the fenceline monitoring requirements in 40 CFR 63.658(c)(3). First, we are proposing to require only one field blank per sampling period rather than two as currently required. Second, we are proposing to decrease the number of duplicate samples that must be collected each sample period. Instead of requiring a duplicate sample for every 10 monitoring locations, we propose that facilities with 19 or fewer monitoring locations only be required to collect one duplicate sample per sampling period and facilities with 20 or more sampling locations only be required to collect two duplicate samples per sampling period. These proposed changes reflect current practices and the needed quality assurance/quality control of blanks and samples. The reduced need for quality assurance/quality control samples is a result of enhancement and refinement of sample preparation and sorbent tube manufacturing, leading to an increase in precision of blanks and lower levels of containments in blanks as compared to the developmental stage of the method.

We received questions during the fenceline reporting webinars on how to report duplicate sample results and whether duplicate sample results are to be used in the calculation of Δc. Because there are two analytical results for each set of duplicate samples and the final rule was unclear on how to report these results, facilities were uncertain whether they should choose one of the two results for use in the calculation of

Δc or whether the results should be averaged. In order to clarify how the results of the duplicate sample analyses are to be used, we are proposing to require that duplicate samples be averaged together to determine the sampling location's benzene concentration for the purposes of calculating Δc.

Consistent with the requirements in 40 CFR 63.658(k) for requesting an alternative test method for collecting and/or analyzing samples, we are proposing to revise the Table 6 entry for 40 CFR 63.7(f) to indicate that 40 CFR 63.7(f) applies except that alternatives directly specified in 40 CFR part 63, subpart CC do not require additional notification to the Administrator or the approval of the Administrator. We also are proposing editorial revisions to the fenceline monitoring section; these proposed revisions are included in Table 2 in section III.A.7 of this preamble.

6. Flare Control Device Provisions

API and AFPM requested clarification in a December 1, 2016, letter to EPA [13] regarding assist steam line designs that entrain air into the lower or upper steam at the flare tip. The industry representatives noted that many of the steam-assisted flare lines have this type of air entrainment and likely were part of the dataset analyzed to develop the standards established in the 2015 final rule for steam-assisted flares. API and AFPM, therefore, maintain that these flares should not be considered to have assist air, and that they are appropriately and adequately regulated under the final standards for steam-assisted flares. Because flares with assist air are required to comply with both a combustion zone net heating value (NHV_{cz}) and a net heating value dilution parameter (NHV_{dil}), there is increased burden in having to comply with two operating parameters, and API and AFPM contend that this burden is unnecessary.

Assist air is defined to mean all air intentionally introduced prior to or at a flare tip through nozzles or other hardware conveyance for the purposes including, but not limited to, protecting the design of the flare tip, promoting turbulence for mixing, or inducing air into the flame. *Assist air* includes premix assist air and perimeter assist air. *Assist air* does not include the surrounding ambient air. Air entrainment through steam nozzles is intentionally introduced prior to or at the flare tip and, therefore, it is considered assist air. However, if this is the only assist air introduced prior to or at the flare tip, it is reasonable in most cases for the owner or operator to only need to comply with the NHV_{cz} operating limit. This is because an exceedance of the NHV_{cz} operating limit would also cause an exceedance of the NHV_{dil} operating limit in many cases.

We calculated the amount of air that must be entrained in the steam to cause a flare meeting the NHV_{cz} operating limit of 270 British thermal units per standard cubic foot (Btu/scf) to be below the NHV_{dil} operating limit of 22 Btu per square foot (Btu/ft^2). The NHV_{dil} parameter is a function of flare tip diameter. For flare tips with an effective tip diameter of 9 inches or more, there are no flare tip steam induction designs that can entrain enough assist air to cause a flare operator to have a deviation of the NHV_{dil} operating limit without first deviating from the NHV_{cz} operating limit. Therefore, we are proposing to allow owners or operators of flares whose only assist air is from perimeter assist air entrained in lower and upper steam at the flare tip and with a flare tip diameter of 9 inches or greater to comply only with the NHV_{cz} operating limit.

Steam-assisted flares with perimeter assist air and an effective tip diameter of less than 9 inches would remain subject to the requirement to account for the amount of assist air intentionally entrained within the calculation of NHV_{dil}. We recognize that this assist air cannot be directly measured, but the quantity of air entrained is dependent on the assist steam rate and the design of the steam tube's air entrainment system. We are proposing to add provisions to specify that owners or operators of these smaller diameter steam-assisted flares use the steam flow rate and the maximum design air-to-steam ratio of the steam tube's air entrainment system for determining the flow rate of this assist air. Using the maximum design ratio will tend to over-estimate the assist air flow rate, which is conservative with respect to ensuring compliance with the NHV_{dil} operating limit.

In addition to these revisions, for air assisted flares, we also are providing clarification on determining air flow rates. While we specifically provided for the use of engineering calculations for determining the flow rate, we received questions in the February 1, 2016, petition as to whether or not this allowed the use of fan curves for determining air assist flow rates. In the December 2015 final rule in the introductory paragraph of 40 CFR 63.670(i), we stated that continuously monitoring fan speed or power and using fan curves is an acceptable method for continuously monitoring assist air flow rates. To further clarify this point, we are proposing to include specific provisions for continuously monitoring fan speed or power and using fan curves for determining assist air flow rates.

In response to the February 1, 2016, petition for reconsideration from API and AFPM, we are also proposing to clarify the requirements for conducting visible emissions monitoring. API and AFPM raised a concern that the current language in 40 CFR 63.670(h) is unclear and could be interpreted to require facilities to flare regulated materials in order to conduct the required visible emissions monitoring. We recognize that many flares are used only during startup, shutdown, or emergency events and we agree that it is not reasonable to require refiners to flare regulated materials intentionally in order to conduct a visible emissions compliance demonstration. We are proposing to clarify that the initial 2-hour visible emissions demonstration should be conducted the first time regulated materials are routed to the flare. We are also proposing to clarify 40 CFR 63.670(h)(1) to provide that the daily 5-minute observations must only be conducted on days the flare receives regulated material and that the additional visible emissions monitoring is specific to cases when visible emissions are observed while regulated material is routed to the flare.

API and AFPM requested in their February 1, 2016, petition for reconsideration that we specify the averaging period for establishing the limit for the smokeless capacity of the flare and that it be a 15-minute average consistent with other flow parameters and velocity requirements. Owners or operators would use the cumulative flow rate and/or flare tip velocity determined according to 40 CFR 63.670(k) for assessing exceedances of the smokeless capacity, and this flow rate is specifically determined on a 15-minute block average. Consistent with these requirements, we are proposing to clarify, at 40 CFR 63.670(o)(1)(iii)(B), that the owner or operator must establish the smokeless capacity of the flare in a 15-minute block average and at 40 CFR 63.670(o)(3)(i) that the exceedance of the smokeless capacity of the flare is based on a 15-minute block average. We are also correcting an error in the units for the cumulative volumetric flow used in the flare tip velocity equation in 40 CFR

[13] Letter from Matt Todd, API, and David Friedman, AFPM, to Penny Lassiter, EPA. December 1, 2016. Available in Docket ID No. EPA–HQ–OAR–2010–0682.

63.670(k)(3). We are revising the units to specify standard cubic feet rather than actual cubic feet consistent with the cumulative volumetric flow monitoring requirements in 40 CFR 63.670(i)(1) and as stated in our response to public comments (Docket Item No. EPA–HQ–OAR–2010–0682–0802) in the discussion under 3.3.5.–Velocity Limit and Calculation Method. These specific edits are included in the summary of editorial corrections provided in Table 2 of his preamble (see section III.A.7).

Industry stakeholders with input from vendors have also made submissions [14] [15] [16] expressing concerns over the ability to meet the flare vent gas flow rate minimum accuracy requirements in 40 CFR 60.107a(f)(1)(ii) and in Table 13 of 40 CFR part 63, subpart CC when vent streams have low molecular weight. These requirements specify an accuracy of ±20 percent of the flow rate at velocities ranging from 0.1 to 1 foot per second and an accuracy of ±5 percent of the flow rate for velocities greater than 1 foot per second. Stakeholders stated that the accuracy requirements could not be met for some historical flow events when molecular weight of the flare vent gas was low, including: plant power outages caused by weather, compressor surges due to lightning strikes, compressor shutdowns due to high vibration events, hydrogen plant startup and shutdown, CRU plant startups, flare header maintenance activities and routing of high hydrogen process streams to the flare during maintenance events and process upsets. The EPA recognizes that flares can receive a wide range of process streams over a wide range of flows. We are clarifying in this preamble that certification of compliance for these flare vent gas flow meter accuracy requirements can be made based on the typical range of flare gas compositions expected for a given flare.

7. Other Corrections

We received comments from API and AFPM in their February 1, 2016, petition for reconsideration regarding the incorporation of 40 CFR part 63, subpart WW storage vessel provisions and 40 CFR part 63, subpart SS closed vent systems and control device provisions into Refinery MACT 1 requirements for Group 1 storage vessels at 40 CFR 63.660. The pre-amended version of the Refinery MACT 1 rule specified (by cross reference at 40 CFR 63.646) that storage vessels containing liquids with a vapor pressure of 76.6 kilopascals (11.0 pounds per square inch (psi)) or greater must be vented to a closed vent system or to a control device consistent with the requirements in the HON. The petitioners pointed out that the EPA did not retain this provision at 40 CFR 63.660 in the December 2015 final rule. In reviewing the introductory text at 40 CFR 63.660, we agree that the language was inadvertently omitted. We did not intend to deviate from the longstanding requirement limiting the vapor pressure of material that can be stored in a floating roof tank. We are, therefore, proposing to revise the introductory text in 40 CFR 63.660 to clarify that owners or operators of affected Group 1 storage vessels storing liquids with a maximum true vapor pressure less than 76.6 kilopascals (11.0 psi) can comply with either the requirements in 40 CFR part 63, subpart WW or SS and that owners or operators storing liquids with a maximum true vapor pressure greater than or equal to 76.6 kilopascals (11.0 psi) must comply with the requirements in 40 CFR part 63, subpart SS.

We also received comments from API and AFPM in their February 1, 2016, petition for reconsideration regarding provisions in 40 CFR 63.660(b). Section 63.660(b)(1) allows Group 1 storage vessels to comply with alternatives to those specified in 40 CFR 63.1063(a)(2) of subpart WW. Section 63.660(b)(2) specifies additional controls for ladders having at least one slotted leg. The petitioners explained that 40 CFR 63.1063(a)(2)(ix) provides extended compliance time for these controls, but that it is unclear whether this additional compliance time extends to the use of the alternatives to comply with 40 CFR 63.660(b). We are proposing language to make clear that the additional compliance time applies to the implementation of controls in 40 CFR 63.660(b).

We received several questions from industry pertaining to the requirement in paragraphs 40 CFR 63.655(f) and 40 CFR 63.655(f)(6) to submit a NOCS report. The final rule allows sources that are newly subject to Refinery MACT 1 to submit the NOCS in a periodic report rather than in a separate notification submission (40 CFR 63.655(f)(6)). It is reasonable that any source with a compliance date on or after February 1, 2016, should be able to follow the same approach. We are proposing to amend paragraphs 40 CFR 63.655(f) and 40 CFR 63.655(f)(6) to expressly provide that sources having a compliance date on or after February 1, 2016, may submit the NOCS in the periodic report rather than as a separate submission.

We are also proposing to clarify at 40 CFR 63.660(e) that the initial inspection requirements that applied with initial filling of the storage vessels are not required again simply because the source transitions from the requirements in 40 CFR 63.646 to 40 CFR 63.660.

We also received comments from API and AFPM [17] that the deadlines in the December 2015 final rule for reporting results of performance tests are inconsistent. The electronic reporting requirements in 40 CFR 63.655(h)(9) provide that the results of performance tests must be reported within 60 days of completing the performance test, while the NOCS report in 40 CFR 63.655(f), which is required to contain the performance test results, is due 150 days from the compliance date in the rule. We note that while some performance tests may be required prior to the requirement to submit the NOCS report, others may be performed when no NOCS report is due. We are proposing revisions to 40 CFR 63.655(f)(1)(i)(B)(*3*) and (C)(*2*), (f)(1)(iii), (f)(2), and (f)(4) to clarify that when the results of performance tests [or performance evaluations] are to be reported in the NOCS, the results are due by the date the NOCS report is due (report is due 150 days from the compliance date) whether the results are reported using the Compliance and Emissions Data Reporting Interface (CEDRI) or in hard copy as part of the NOCS report. If the source submits the test results using CEDRI, we are also proposing to specify that the source need not resubmit those results in the NOCS, but may instead submit specified information identifying that a performance test [or performance evaluation] was conducted and the unit(s) and pollutant(s) that were tested. We are also proposing to add the phrase ''Unless otherwise specified by this subpart'' to 40 CFR 63.655(h)(9)(i) and (ii) to make clear that test results associated with a NOCS report are not due within 60 days of completing the performance test or performance evaluation. We are also amending several references in Table 6—General Provisions Applicability to Subpart CC that discuss reporting requirements for performance tests or performance evaluations. As the General Provisions sections currently only address submissions of written test reports, we are proposing to clarify these entries in Table 6 to recognize that performance

[14] Kris A. Battleson, ''Chevron-vendor information for call at 12 PDT, 3 EDT.'' Message to Gerri Garwood and Brenda Shine. August 29, 2017. Email.

[15] Kris A. Battleson, ''meter QA/QC.'' Message to Brenda Shine. September 19, 2017. Email.

[16] Karin C. Ritter, ''API Submitting: Flare Flow Meter Accuracy White Paper & CRU Data & Summary.'' Message to Penny Lassiter and Brenda Shine. January 16, 2018. Email.

[17] API and AFPM, March 28, 2017.

test results may be written or electronic. Specifically, we are proposing to make these clarifications in Table 6 entries for 40 CFR 63.6(f)(3), 63.6(h)(8), 63.7(a)(2), and 63.8(e).

We also received questions from API and AFPM [18] on other aspects of the electronic reporting requirements. Industry representatives requested that electronic reporting only be required if all the test methods used to determine the emissions are supported by the Electronic Reporting Tool (ERT) (*e.g.,* methods for velocity as well as pollutant concentration). We recognize that the ERT does not support all test methods and that there is little value in submitting a stack flow electronically and the pollutant concentration in written format or PDF. We are revising the ERT website to clarify that electronic reporting is not required where the ERT does not support the test method for the pollutant of interest.

We recognize that there are instances when two primary pollutants may be measured during a single performance test, one supported by the ERT and one not supported by the ERT. For petroleum refineries, this occurs if the owner or operator conducts a particulate matter (PM) performance test coincident with the hydrogen cyanide performance test. Since the PM test methods (Methods 5, 5B, and 5F) are supported by the ERT, we require that this performance test be submitted via the ERT. However, testing for hydrogen cyanide is not supported by the ERT. The owner or operator may meet the reporting requirement for the hydrogen cyanide test by either including the test report as an attachment to the ERT submission so that both results are submitted electronically or by submitting the test report in hard copy or other agreed upon format.

Industry representatives also recommended that the requirement to report electronically be suspended until a reliable system is in place. We note that the submission of ERT-formatted performance test and performance evaluation reports using CEDRI is fully operational, and there are no known or reported system issues. CEDRI accepts all ERT version 5 report submissions that are properly created using the ERT. If the ERT zip file being uploaded to CEDRI is not created from the ERT or does not meet the file format requirements established by the EPA, CEDRI will not accept the file upload and will provide the user instructions on how to resolve the error(s). In addition, the Central Data Exchange (CDX) Helpdesk staff are available during regular business hours to support industry users in completing their submissions electronically using CEDRI. Any user concerns that cannot be resolved by the CDX Helpdesk are escalated to either EPA staff or the application support contractors for resolution. To date, over 3,400 ERT files have been submitted to the EPA through CEDRI. There have been 43 calls to the Helpdesk for assistance. The CDX Helpdesk resolved 34 of these calls, and the EPA and their support contractors resolved the remaining nine. We encourage all users to continue to contact the CDX Helpdesk with any issues encountered during the submission process.

We have also identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept a claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. In 40 CFR 63.655(h)(10)(i), we address the situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which preclude a user from accessing the system and submitting required reports. If either the CDX or CEDRI is unavailable at any time beginning 5 business days prior to the date that the submission is due, and the unavailability prevents a user from submitting a report by the required date, users may assert a claim of EPA system outage. We consider 5 business days prior to the reporting deadline to be an appropriate timeframe because, if the system is down prior to this time, users still have 1 week to complete reporting once the system is back online. However, if the CDX or CEDRI is down during the week a report is due, we realize that this could greatly impact the ability to submit a required report on time. We will notify users about known outages as far in advance as possible by CHIEF Listserv notice, posting on the CEDRI website, and posting on the CDX website so that users can plan accordingly and still meet reporting deadlines. However, if a planned or unplanned outage occurs and users believe that it will affect or it has affected their ability to comply with an electronic reporting requirement, we have provided a process to assert such a claim.

Consistent with 40 CFR 63.655(h)(10), a source may seek an extension of the time to comply with an electronic reporting requirement. We are proposing to revise this provision to address the situation where an extension may be warranted due to a *force majeure* event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents them from complying with the requirement to submit a report electronically as required by this rule. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. If such an event occurs or is still occurring or if there are still lingering effects of the event in the 5 business days prior to a submission deadline, we are proposing a process to assert a claim of *force majeure* as a basis for extending the reporting deadline to protect refiners from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control.

We received questions from API and AFPM [19] regarding the integrity checks required for the temperature and pressure monitor inspections in Table 13 (40 CFR part 63, subpart CC) and in Items 2, 4, 6, 7, 9, and 10 of Table 41 (40 CFR part 63, subpart UUU). Commenters noted that 40 CFR 63.657(b)(4), which applies to delayed coker pressure monitoring, indicates that the ''. . . pressure monitoring system must be visually inspected for integrity . . .'' and suggested that the table entries likewise specify that visual inspections are required/acceptable. The continuous parameter monitoring system (CPMS) pressure monitoring addressed in Tables 13 and 41 is broader than the monitoring requirement in 40 CFR 657(b)(4) and visual monitoring is not required for monitoring other systems as it is for delayed coker pressure monitoring. However, we agree that visual inspections are acceptable for those other systems, though, for those systems, there may be other methods of assessing integrity, such as current meters for wiring, that are not visual. In recognition of the fact that not all checks will be ''visual,'' we did not specify ''visual'' inspections in Tables 13 and 41.

In codifying the amendments to 40 CFR 63.655(i)(5), the specific recordkeeping requirements in the subparagraphs for regulation as it existed prior to the revisions were not retained in the regulations as published by the CFR. As reflected in the instructions to the amendments, we intended to move the heat exchanger recordkeeping requirements from paragraph (i)(4) to (i)(5) and to revise the introductory text to new paragraph (i)(5)

[18] API and AFPM, March 28, 2017.

[19] API and AFPM, March 28, 2017.

(see instructions 27.j. and 27.l. in 80 FR 75247). These revisions were incorporated into the CFR; however, the subparagraphs, which were not being revised, were not included in the CFR. We are proposing to revise 40 CFR 63.655(i)(5) to include the subparagraphs (as previously codified in subparagraph (i)(4)) that were inadvertently not included in the published CFR.

Similarly, the amendments to 40 CFR 63.655(h)(5)(iii) included in the December 2015 final rule **Federal Register** document (80 FR 75247) were not included in the regulations as published by the CFR. As reflected in the instructions to the amendments, we intended for the option to use an automated data compression recording system to be an approved monitoring alternative. In reviewing this amendment, the EPA noted that 40 CFR 63.655(h)(5) specifically addresses mechanisms for owners or operators to request approval for alternatives to the continuous operating parameter monitoring and recordkeeping provisions, while the provisions in 40 CFR 63.655(i)(3) specifically include options already approved for CPMS. Consistent with our intent for the use of an automated data compression recording system to be an approved monitoring alternative, we are proposing to move the paragraphs at 40 CFR 63.655(h)(5)(iii) to 40 CFR 63.655(i)(3)(ii)(C).

There are several additional revisions that we are proposing to Refinery MACT 1 to correct typographical errors, grammatical errors, and cross-reference errors. Table 2 of this preamble summarizes these editorial changes as well as other changes as discussed in this preamble.

TABLE 2—SUMMARY OF PROPOSED EDITORIAL AND OTHER CORRECTIONS TO REFINERY MACT 1

Provision	Proposed revision
MPV:	
Last sentence in § 63.643(c)	Replace ''owner of operator'' with ''owner or operator.''
§ 63.643(c)(1)(ii)	Define the term ''psig'' as pounds per square inch gauge and remove the last occurrence of ''equipment.''
§ 63.643(c)(1)(iii)	Define the term ''VOC'' as total volatile organic compounds.
PRD:	
§ 63.648(a)	Correct reference to ''paragraphs (a)(1) through (2)'' to ''paragraphs (a)(1) through (3).'' Also, correct reference to ''paragraphs (c) through (i)'' to ''paragraphs (c) through (j).''
§ 63.648(c)	Correct reference to ''paragraphs . . . (e) through (i) . . . '' to ''paragraphs . . . (e) through (j) . . .''
Last sentence in § 63.648(j)(3)(iv)	Add space between *majeure* and events.
DCU:	
§ 63.655(i)(7)(iii)(B)	Adjust recordkeeping requirement to the 5-minute period prior to pre-vent draining, rather than 15-minute period.
§ 63.657(a)(1)(i) and (ii); § 63.657(a)(2)(i) and (ii).	Correct the temperature and pressure limits to be expressed as maximums by adding ''or less'' to each numerical limit.
§ 63.657(b)(5)	Clarify that the output of the pressure monitoring system must be reviewed only when the drum is in service, so the provision reads, ''The output of the pressure monitoring system must be reviewed each day the unit is operated to ensure . . .''
Fenceline:	
Second sentence in § 63.658(c)(2) and § 63.658(e).	Replace ''owner of operator'' with ''owner or operator.''
§ 63.658(d)(1)	Correct the reference to ''paragraph (i)(1)'' to ''paragraph (i)(2).''
§ 63.658(d)(2)	Update the reference to Section 8.3 of Method 325A to more specifically reference Sections 8.3.1 through 8.3.3 of Method 325A.
§ 63.658(e)(3)(iv)	Delete the word ''an'' in the first sentence.
Flares:	
§ 63.670(o)	Correct the reference to ''paragraphs (o)(1) through (8)'' to ''paragraphs (o)(1) through (7).''
§ 63.670(j)(6)	Correct the reference to subparagraphs ''(j)(6)(i) through (v)'' to ''(j)(6)(i) through (iii).''
§ 63.670(k)(3) equation term for Q_{cum}.	Correct units for Q_{cum} to be ''standard cubic feet.''
§§ 63.670(i), (m)(2) including equation terms, and (n)(2) including equation terms.	Update the reference to ''supplemental natural gas'' to the defined term ''flare supplemental gas.''
§ 63.670(o)(1)(ii)(B)	Correct the reference to paragraph ''§ 63.648(j)(5)'' to ''§ 63.648(j)(3)(ii)(A) through (E).''[20]
§§ 63.670(o)(1)(iii)(B) and (o)(3)(i)	Edit the paragraphs to refer to a 15-minute block averaging time relative to the smokeless design capacity of the flare.
Table 13, Hydrogen Analyzer Requirements for Sampling Location.	Add ''Where feasible'' to the description of sampling location for the hydrogen analyzer.
Storage Vessels:	
§ 63.655(f)(1)(i)(A)(*1*) through (*3*)	Add a reference to the option to comply with § 63.660 in addition to compliance with § 63.646.
§ 63.655(g)(2)(B)(*1*)	Add the word ''area'' to the end of the sentence consistent with the same requirement in the HON.
§ 63.655(h)(2)(ii)	Correct the reference to ''§ 63.1063(d)(3)'' to ''§ 63.1062(d)(3).''
§ 63.660(b)(1)	Correct the reference to ''§ 63.1063(a)(2)(vii)'' to ''§ 63.1063(a)(2)(viii).''
§ 63.660(i)(2)	Delete the second use of the word ''to.''
Other:	
Table 6, Comment for Reference § 63.7(h)(3).	Correct the reference ''§ 63.7(g)(3)'' to ''§ 63.7(h)(3)(i).''

B. Clarifications and Technical Corrections to Refinery MACT 2

1. FCCU Provisions

In order to demonstrate compliance with the alternative PM standard for FCCU at 40 CFR 63.1564(a)(5)(ii), the outlet (exhaust) gas flow rate of the catalyst regenerator must be determined. Refinery MACT 2 provides that owners or operators may determine this flow rate using a flow CPMS or the alternative provided in 40 CFR 63.1573(a). Currently, the language in 40 CFR 63.1573(a) restricts the use of the alternative to occasions when ''the unit does not introduce any other gas streams into the catalyst regenerator vent.'' API and AFPM [21] claim that while this restriction is appropriate for determining the flow rate for applying emissions limitations downstream of the regenerator because additional gases introduced to the vent would not be measured using this method, it is not a necessary constraint for determining compliance with the alternative PM limit. This is because the alternative PM standard applies at the outlet of the regenerator prior to the primary cyclone inlet and this is the flow measured by the alternative in 40 CFR 63.1573(a). We agree that there should be no such restriction when determining the outlet flow rate to the regenerator for the purposes of demonstrating compliance with the alternate PM standard at 40 CFR 63.1564(a)(5)(ii), and are proposing to amend 40 CFR 63.1573(a) to remove that restriction.

Additionally, API and AFPM noted in their February 1, 2016, petition for reconsideration that the FCCU alternative organic HAP standard for startup, shutdown, and hot standby in 40 CFR 63.1565(a)(5)(ii) requires maintaining the oxygen concentration in the regenerator exhaust gas at or above 1 vol. percent (dry) (*i.e.,* greater than or equal to 1-percent oxygen (O_2) measured on a dry basis); however, they claim process O_2 analyzers measure O_2 on a wet basis. Therefore, the commenters explained that they would need to take a moisture measurement and use the measurement to correct the measured O_2 in order to demonstrate compliance with the standard. Industry commenters explained that this is unnecessary as an FCCU meeting the 1-percent O_2 alternative standard measured on a wet basis will be compliant with the 1-percent limit on a dry basis. We agree that meeting the 1-percent O_2 standard on a wet basis measurement will always mean that there is more O_2 than if the concentration value is corrected to a dry basis. As such, a wet basis measurement of 1-percent O_2 is adequate to demonstrate compliance with the minimum O_2 alternative limit in 40 CFR 63.1565(a)(5)(ii). Therefore, we are proposing to amend 40 CFR 63.1565(a)(5)(ii) and Table 10 to allow for the use of a wet O_2 measurement for demonstrating compliance with the standard so long as it is used directly with no correction for moisture content.

2. Other Corrections

API and AFPM commented in their February 1, 2016, petition for reconsideration that the amendments to the provision for CPMS monitoring and data collection in Refinery MACT 2 at 40 CFR 63.1572(d)(1) which do not exclude periods of monitoring system malfunction, associated repairs, and quality assurance or control activities is inconsistent with paragraph (d)(2) which specifies that data recorded during required quality assurance or control activities may not be used. Additionally, API and AFPM stated that an analogous provision in 40 CFR 63.1572(d) for CPMS monitoring and data collection was maintained in the final Refinery MACT 1 at 40 CFR 63.671(a)(4). We agree that we should maintain consistency between Refinery MACT 1 and Refinery MACT 2 whenever possible and, in this case, there is no good reason for the two subparts to differ. CPMS readings taken during periods of monitoring system malfunctions and repairs do not provide accurate or valid data. In order to repair a monitoring system, the CPMS must generally be taken offline or completely out of service, and, therefore, there would be no data to record. During a monitoring system malfunction, while there may or may not be data to record, the malfunction will affect the accuracy of the data. This is the reason why these data are generally excluded from data averages (as noted in 40 CFR 63.8(g)(5)). Therefore, we are proposing to amend the language in Refinery MACT 2 at 40 CFR 63.1572(d)(1) so that the language is the same as that in Refinery MACT 1 at 40 CFR 63.671(a)(4).

The final amendments provide alternative emission limits during periods of startup and shutdown for some units, such as the FCCU alternative organic HAP standard for startup, shutdown, and hot standby in 40 CFR 63.1565(a)(5)(ii). API and AFPM questioned in their February 1, 2016, petition for reconsideration whether the recordkeeping requirements in 40 CFR 63.1576(a)(2)(i) apply when the owners or operators elect to comply with the otherwise applicable emissions limitations during periods of startup and shutdown. Separate recordkeeping requirements apply when a source is subject to the otherwise applicable emissions limits; thus, it is not necessary for the recordkeeping requirements in 40 CFR 63.1576(a)(2)(i) to also apply. Therefore, we are proposing to amend the recordkeeping requirement in 40 CFR 63.1576(a)(2)(i) to apply only when facilities elect to comply with the alternative startup and shutdown standards provided in 40 CFR 63.1564(a)(5)(ii) or 40 CFR 63.1565(a)(5)(ii) or 40 CFR 63.1568(a)(4)(ii) or (iii).

We are proposing to revise Refinery MACT 2 to address the same issue raised for Refinery MACT 1 regarding the reporting of initial performance tests. We are proposing to amend 40 CFR 63.1574(a)(3) to clarify that the results of performance tests conducted to demonstrate initial compliance are to be reported by the date the NOCS report is due (150 days from the compliance date) whether the results are reported using CEDRI or in hard copy as part of the NOCS report and to clarify the information to be included in the NOCS if the test results are submitted through CEDRI. Unlike Refinery MACT 1, Refinery MACT 2 has on-going performance test requirements. We are proposing that the results of periodic performance tests and the one-time hydrogen cyanide (HCN) test required by 40 CFR 63.1571(a)(5) and (6) must be reported with the semi-annual compliance reports as specified in 40 CFR 63.1575(f) instead of within 60 days of completing the performance evaluation. Similarly, we are also proposing to streamline reporting of the results of performance evaluations for continuous monitoring systems (as provided in entry 2 to Table 43) to align with the semi-annual compliance reports as specified in 40 CFR 63.1575(f), rather than requiring a separate report submittal. We are proposing to add the phrase ''Unless otherwise specified by this subpart'' to 40 CFR 63.1575(k)(1) and (2) to indicate that any performance tests or performance evaluations required to be reported in a NOCS report or a semi-annual compliance report are not subject to the 60-day deadline specified in these paragraphs. We are also proposing to add 40 CFR 63.1575(l) to

[20] A similar revision was included in the October 18, 2016, reconsideration notice and proposed rule (81 FR 71661). In the reconsideration notice and proposed rule, we proposed to correct the reference to paragraph ''§ 63.648(j)(5)'' to ''§ 63.648(j)(3)(ii).'' In this proposal, we are including a more specific reference to the subparagraphs in 40 CFR 63.648(j)(3) to clarify that the rule requires owners and operators to evaluate the list of prevention measures in these subparagraphs.

[21] API and AFPM, March 28, 2017.

address extensions to electronic reporting deadlines.

Similar to the revisions in Table 6 to 40 CFR part 63, subpart CC (see section III. A.7), we are proposing to revise selected entries in Table 44 to Subpart UUU of Part 63—Applicability of NESHAP General Provisions to Subpart UUU, to clarify several sections of the General Provisions (40 CFR part 63, subpart A) that the reporting can be written or electronic, the timing of these reports is specified in 40 CFR part 63, subpart UUU, and the subpart UUU provisions supersede the General Provisions. Specifically, we are proposing to revise Table 44 entries for 40 CFR 63.6(f)(3), 63.7(h)(7)(i), 63.6(h)(8), 63.7(a)(2), 63.7(g), 63.8(e), 63.10(d)(2), 63.10(e)(1), 63.10(e)(2), and 63.10(e)(4) to explain that 40 CFR part 63, subpart UUU specifies how and when to report the results of performance tests or performance evaluations.

There are several additional revisions that we are proposing to Refinery MACT 2 to correct typographical errors, grammatical errors, and cross-reference errors. These editorial corrections are summarized in Table 3 of this preamble.

TABLE 3—SUMMARY OF PROPOSED EDITORIAL AND MINOR CORRECTIONS TO REFINERY MACT 2

Provision	Proposed revision
§ 63.1564(b)(4)(iii)	Correct the reference to "paragraph (a)(1)(iii)" to "paragraph (a)(1)(v)."
§ 63.1564(c)(3)	Correct the reference to "paragraph (a)(1)(iii)" to "paragraph (a)(1)(v)."
§ 63.1564(c)(4)	Correct the reference to "paragraph (a)(1)(iv)" to "paragraph (a)(1)(vi)."
§ 63.1564(c)(5)(iii)	Correct the units of measure for velocity to ft/sec.
§ 63.1569(c)(2)	Correct the reference to "paragraph (a)(2)" to "paragraph (a)(3)."
§ 63.1571(a)(5) and (6); and Table 6, Item 1.ii.	Add "or within 60 days of startup of a new unit" to the compliance time for the periodic performance testing requirement for PM or Ni and to the one-time performance testing requirement for HCN.
§ 63.1571(d)(1)	Correct the reference to "paragraph (a)(1)(iii)" to "paragraph (a)(1)(v)."
§ 63.1571(d)(2)	Correct the reference to "paragraph (a)(1)(iv)" to "paragraph (a)(1)(vi)."
§ 63.1572(c)(1)	Delete duplicative sentence, "You must install, operate, and maintain each continuous parameter monitoring system according to the requirements in Table 41 of this subpart."
Table 3	Correct the spelling of the word "continuous" in the table's title.
Table 3, Item 2.c	Delete the words, "the coke burn-off rate or." Correct the footnote reference from "3" to "1."
Table 3, Items 6 through 9	Correct the reference to "§ 60.120a(b)(1)" to "§ 60.102a(b)(1)."
Table 4, Item 9.c	Correct the reference to "Equation 2 of § 63.571" to "Equation 1 of § 63.571, if applicable."
Table 4, Item 10.c	Correct the reference to "item 6.c." to "item 9.c." and add "if applicable" after reference to Equation 2 of § 63.571.
Table 5, Item 3	Correct the reference to "60.102a(b)(1)(i)" to "60.102a(b)(1)(ii)," and correct the reference to "1.0 g/kg (1.0 lb/1,000 lb)" to "0.5 g/kg (0.5 lb PM/1,000 lb)."
Table 6, Item 7	Delete " and 30% opacity" as this is not part of Option 1b.
Table 43, Item 2	Correct the compliance date to the effective date of the rule (February 1, 2016).

C. Clarifications and Technical Corrections to NSPS Ja

During recent implementation efforts, it was brought to our attention that the testing requirement in 40 CFR 60.105a(b)(2)(ii) differs from similar requirements in 40 CFR 60.105a(d)(4), (f)(4), and (g)(4) where we allow use of Method 3, 3A, or 3B, both for the performance tests and the relative accuracy tests. The language in 40 CFR 60.105a(b)(2)(ii) does not currently include Methods 3A and 3B (and the alternative ANSI/ASME method for EPA Method 3B) and mistakenly cites Appendix A–3 rather than Appendix A–2. We are proposing to revise 40 CFR 60.105a(b)(2)(ii), consistent with the other similar requirements in NSPS subpart Ja listed above, to read as follows, ''The owner or operator shall conduct performance evaluations of each CO_2 and O_2 monitor according to the requirements in § 60.13(c) and Performance Specification 3 of appendix B to this part. The owner or operator shall use Method 3, 3A or 3B of appendix A–2 to this part for conducting the relative accuracy evaluations. The method ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see § 60.17) is an acceptable alternative to EPA Method 3B of appendix A–2 to part 60.'' The EPA is proposing a corresponding change to 40 CFR 60.17(g)(14) to add 40 CFR 60.105a(b) to the list of regulations in which this method has been incorporated by reference. It should be noted that through this revision, 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(a), the EPA is proposing to incorporate by reference the ANSI/ASME PTC 19.10–1981 test method. The EPA has made, and will continue to make, this document generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

We also identified that the second sentence of 40 CFR 60.106a(a)(1)(iii) includes the following clause, ''. . . and Method 3 or 3A of appendix A–2 of part 60 for conducting the relative accuracy evaluations'' which is redundant to 40 CFR 60.106a(a)(1)(vi) (and again, does not include all three Methods). We are proposing to delete this clause. We are also proposing to change the word ''Methods'' to ''Method'' in the second sentence of 40 CFR 60.106a(a)(1)(iii) to better reflect our intent for facilities to select a single performance evaluation method.

IV. Summary of Cost, Environmental, and Economic Impacts

This proposed rule is expected to result in overall cost and burden reductions. Specifically, the proposed amendments expected to reduce burden are: Revisions of the maintenance vent provisions related to the availability of a pure hydrogen supply for equipment containing pyrophoric catalyst, revisions of recordkeeping requirements for maintenance vents associated with equipment containing less than 72 lbs VOC, inclusion of specific provisions for pilot-operated and balanced bellows PRDs, and inclusion of specific provisions related to steam tube air entrainment for flares. These proposed amendments are described in detail in sections III.A.2.b, III.A.2.d, III.A.3.c, and III.A.5 of this preamble, respectively. The other proposed amendments will have an insignificant effect on the

compliance costs associated with these standards. Additionally, none of the proposed amendments are projected to appreciably impact the emissions reductions associated with these standards.

Some of the cost reductions associated with this proposed rule were not fully captured in the impacts estimated for the December 2015 final rule. The total capital investment cost of the December 2015 final rule was estimated at $283 million, $112 million from the final amendments for storage vessels, DCUs, and fenceline monitoring, and $171 million from standards for flares and PRDs. The annualized costs of the final amendments for storage vessels, DCUs, and fenceline monitoring were estimated to be approximately $13.0 million and the annualized costs of the final standards for flares and PRDs were estimated to be approximately $50.2 million. There were no capital costs estimated for the maintenance vent provisions in the December 2015 final rule and only limited recordkeeping and reporting costs. Furthermore, while significant capital and operating costs were projected for flares, we may have underestimated the number of steam-assisted flares that would also have to demonstrate compliance with the NHV_{dil} operating limit.

As described previously in section III.A.2.b of this preamble, we did not specifically consider that some units with pyrophoric catalyst at the refinery would have a pure hydrogen supply and others would not. Therefore, we did not include costs in the December 2015 final rule impacts for refineries that have a pure hydrogen supply to add new piping (and possibly increase their hydrogen production capacity) to bring pure hydrogen to units with pyrophoric catalyst that were not currently piped to receive pure hydrogen. Based on information provided by industry petitioners, the capital investment cost to supply pure hydrogen to pyrophoric units that currently do not have a pure hydrogen supply (but that are located at refineries with a pure hydrogen supply) is estimated to be approximately $76 million. Using a capital recovery of 0.0944 based on 20-year equipment life and 7-percent interest, hydrogen supply upgrades would have increased the previously estimated annualized cost by $7,174,400 per year. Table 4 provides the cost reduction expected for the proposed amendments concerning hydrogen supply for pyrophoric units, as well as other proposed amendments.

TABLE 4—PROJECTED IMPACTS OF THE PROPOSED AMENDMENTS TO REFINERY MACT 1

	Current estimate of Dec 2015 rule capital investment costs, million $	Current estimate of Dec 2015 rule annualized costs, million $/yr	Estimated capital investment cost if proposed rule is implemented, million $	Estimated annualized cost if proposed rule is implemented, million $/yr	Reduction in annualized cost of refinery standards, million $/yr
Maintenance vents provisions for equipment with pyrophoric catalyst	76	7.17	0	0	7.17
MPV recordkeeping requirements	0	0.678	0	0.001	0.677
PRD requirements	11.1	3.33	10.0	3.00	0.33
Flare monitoring for steam-assisted flares with air entrainment	130	26.9	130	23.6	3.31

For the proposed amendments to the recordkeeping requirements for equipment containing less than 72 lbs of VOC, the impacts in the December 2015 final rule only included one-time planning costs for how to comply with the maintenance vent requirements; it was assumed that facilities would have maintenance records for each activity, so no additional recordkeeping burden was estimated. According to industry petitioners, there are numerous activities, such as replacing pressure transducers or tubing that would qualify under the less than 72 lbs of VOC provisions, but for which event-specific records are not traditionally maintained. Based on the per event recordkeeping requirement for maintenance vents using the 72 lbs VOC provision in the December 2015 rule, we now estimate that there would be 500 of these small maintenance vent openings per year per refinery and that 0.1 hour would be required to record each individual event, resulting in a nationwide burden of $678,625 per year. The revisions in the proposed rule, would only require records that should be part of the annual planning assessment and records for events not following the deinventory procedures included in these plans. We estimate that each facility would spend 0.1 hour for each non-conforming event and would only have one such event each year with an estimated nationwide burden of $1,357 per year. Thus, the proposed amendments are estimated to yield savings of approximately $677,268 per year considering the actual estimated annualized burden of the December 2015 final rule.

We estimated the PRD requirements in the December 2015 rule would result in a capital investment of $11.1 million to implement prevention measures and flow monitoring systems on PRDs. Combined with the recordkeeping and reporting requirements, the annualized cost of the PRD provisions in the December 2015 final rule was estimated to be $3.3 million per year. We estimate that approximately 10 percent of PRDs at refineries are either pilot-operated or balanced bellows. Thus, if there is a commensurate 10-percent decrease in these costs based on the proposed provisions for pilot-operated or balanced bellows PRD, we estimate the proposed amendments would yield a reduction in capital investment of $1.1 million and a reduction in annualized costs of $330,000 per year.

We estimated that the provisions for steam-assisted flares in the December 2015 rule would result in a capital investment of $130 million and annualized costs of $23.6 million. However, these costs did not include costs to also assess compliance with the NHV_{dil} operating limit for those steam-assisted flares that used intentional air entrainment within the steam tubes. There is no way to measure this air entrainment rate, but engineering calculations were allowed to be used. We estimated that there were 190 steam-assisted flares that received routine flow. We estimate that 0.5 additional hour would be required each day to assess compliance with the NHV_{dil} operating limits for these flares. If all 190 steam-assisted flares were designed for air entrainment in the steam tubes,

this would suggest that the annualized cost of the December 2015 final rule for steam-assisted flares is closer to $26.9 million per year and that the proposed amendments allowing owners or operators of certain steam-assisted flares with air entrainment at the flare tip to comply only with the NHV_{cz} operating limits would reduce annualized costs by approximately $3.3 million.

A detailed memorandum documenting the estimated burden reduction has been included in the docket for this rulemaking (see memorandum titled, ''Impact Estimates for the 2017 Proposed Revisions to Refinery MACT 1,'' in Docket ID No. EPA–HQ–OAR–2010–0682).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1692.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

One of the proposed technical amendments included in this notice impacts the recordkeeping requirements in 40 CFR part 63, subpart CC for certain maintenance vents associated with equipment containing less than 72 lbs VOC as found at 40 CFR 63.655(i)(12)(iv). The new recordkeeping requirement specifies records used to estimate the total quantity of VOC in the equipment and the type and size limits of equipment that contain less than 72 lb of VOC at the time of the maintenance vent opening be maintained. As specified in 40 CFR 63.655(i)(12)(iv), additional records are required if the deinventory procedures were not followed for each maintenance vent opening or if the equipment opened exceeded the type and size limits (*i.e.,* 72 lbs VOC). These additional records include identification of the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere. These records will assist the EPA with determining compliance with the standards set forth in 40 CFR 63.643(c)(iv).

Respondents/affected entities: Owners or operators of existing or new major source petroleum refineries that are major sources of HAP emissions. The NAICS code is 324110 for petroleum refineries.

Respondent's obligation to respond: All data in the ICR that are recorded are required by the proposed amendments to 40 CFR part 63, subpart CC—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries.

Estimated number of respondents: 142.

Frequency of response: Once per year per respondent.

Total estimated burden: 16 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,640 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than May 10, 2018.

The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. The action consists of amendments, clarifications, and technical corrections which are expected to reduce regulatory burden. As described in section IV of this preamble, we expect burden reduction for: Revisions of the maintenance vent provisions related to the availability of a pure hydrogen supply for equipment containing pyrophoric catalyst, revisions of recordkeeping requirements for maintenance vents associated with equipment containing less than 72 lbs VOC, inclusion of specific provisions for pilot-operated and balanced bellows PRDs, and inclusion of specific provisions related to steam tube air entrainment for flares. Furthermore, as noted in section IV of this preamble, we do not expect the proposed amendments to change the expected economic impact analysis performed for the existing rule. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effect on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The proposed amendments serve to make technical clarifications and corrections. We expect the proposed revisions will have an insignificant effect on emission reductions. Therefore, the proposed amendments should not appreciably increase risk for any populations.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. As described in section III.C of this preamble, the EPA proposes to use the voluntary consensus standard ANSI/ASME PTC 19–10–1981—Part 10 ''Flue and Exhaust Gas Analyses'' as an acceptable alternative to EPA Methods 3A and 3B for the manual procedures only and not the instrumental procedures. This method is available at the American National Standards Institute (ANSI), 1899 L Street NW, 11th floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990. See *https://wwww.ansi.org* and *https://www.asme.org*.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The proposed amendments serve to make technical clarifications and corrections. We expect the proposed revisions will have an insignificant effect on emission reductions. Therefore, the proposed amendments should not appreciably increase risk for any populations.

List of Subjects in 40 CFR Parts 60 and 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 20, 2018.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 60.17 is amended by revising paragraph (g)(14) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(g) * * *

(14) ASME/ANSI PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], (Issued August 31, 1981), IBR approved for §§ 60.56c(b), 60.63(f), 60.106(e), 60.104a(d), (h), (i), and (j), 60.105a(b), (d), (f), and (g), § 60.106a(a), § 60.107a(a), (c), and (d), tables 1 and 3 to subpart EEEE, tables 2 and 4 to subpart FFFF, table 2 to subpart JJJJ, § 60.285a(f), §§ 60.4415(a), 60.2145(s) and (t), 60.2710(s), (t), and (w), 60.2730(q), 60.4900(b), 60.5220(b), tables 1 and 2 to subpart LLLL, tables 2 and 3 to subpart MMMM, 60.5406(c), 60.5406a(c), 60.5407a(g), 60.5413(b), 60.5413a(b) and 60.5413a(d).

* * * * *

Subpart Ja—Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

■ 3. Section 60.105a is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 60.105a Monitoring of emissions and operations for fluid catalytic cracking units (FCCU) and fluid coking units (FCU).

* * * * *

(b) * * *

(2) * * *

(ii) The owner or operator shall conduct performance evaluations of each CO_2 and O_2 monitor according to the requirements in § 60.13(c) and Performance Specification 3 of appendix B to this part. The owner or operator shall use Method 3, 3A or 3B of appendix A–2 to this part for conducting the relative accuracy evaluations. The method ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see § 60.17) is an acceptable alternative to EPA Method 3B of appendix A–2 to part 60.

* * * * *

■ 4. Section 60.106a is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 60.106a Monitoring of emissions and operations for sulfur recovery plants.

(a) * * *

(1) * * *

(iii) The owner or operator shall conduct performance evaluations of each SO_2 monitor according to the requirements in § 60.13(c) and Performance Specification 2 of appendix B to part 60. The owner or operator shall use Method 6 or 6C of appendix A–4 to part 60. The method ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see § 60.17) is an acceptable alternative to EPA Method 6.

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 5. The authority citation for part 63 continues to read as follows:

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

Subpart CC—National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries

■ 6. Section 63.641 is amended by:

■ a. Revising the definitions of ''Flare purge gas'', ''Flare supplemental gas'' and ''Relief valve'';

■ b. Adding a new definition of ''Pressure relief device''; and

■ c. Revising paragraphs (1)(i) and (ii) of the definition of ''Reference control technology for storage vessels.''

The revisions and addition read as follows:

§ 63.641 Definitions.

* * * * *

Flare purge gas means gas introduced between a flare header's water seal and the flare tip to prevent oxygen infiltration (backflow) into the flare tip or for other safety reasons. For a flare with no water seal, the function of *flare purge gas* is performed by flare sweep gas and, therefore, by definition, such a flare has no *flare purge gas.*

Flare supplemental gas means all gas introduced to the flare to improve the heat content of combustion zone gas. *Flare supplemental gas* does not include assist air or assist steam.

* * * * *

Pressure relief device means a valve, rupture disk, or similar device used only to release an unplanned, nonroutine discharge of gas from process equipment in order to avoid safety hazards or equipment damage. A pressure relief device discharge can result from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause. Such devices include conventional, spring-actuated relief valves, balanced bellows relief valves, pilot-operated relief valves, rupture disks, and breaking, buckling, or shearing pin devices.

* * * * *

Reference control technology for storage vessels means either:

(1) * * *

(i) An internal floating roof, including an external floating roof converted to an internal floating roof, meeting the specifications of § 63.1063(a)(1)(i), (a)(2), and (b) and § 63.660(b)(2);

(ii) An external floating roof meeting the specifications of § 63.1063(a)(1)(ii), (a)(2), and (b) and § 63.660(b)(2); or

* * * * *

Relief valve means a type of pressure relief device that is designed to re-close after the pressure relief.

* * * * *

■ 7. Section 63.643 is amended by:

■ a. Revising paragraphs (c) introductory text, (c)(1), and (c)(1)(ii) through (iv); and

■ b. Adding a new paragraph (c)(1)(v).

The revisions and addition read as follows:

§ 63.643 Miscellaneous process vent provisions.

* * * * *

(c) An owner or operator may designate a process vent as a maintenance vent if the vent is only used as a result of startup, shutdown, maintenance, or inspection of equipment where equipment is emptied, depressurized, degassed or placed into service. The owner or operator does not need to designate a maintenance vent as a Group 1 or Group 2 miscellaneous process vent nor identify maintenance vents in a Notification of Compliance Status report. The owner or operator must comply with the applicable requirements in paragraphs (c)(1) through (3) of this section for each maintenance vent according to the compliance dates specified in table 11 of this subpart, unless an extension is requested in accordance with the provisions in § 63.6(i).

(1) Prior to venting to the atmosphere, process liquids are removed from the equipment as much as practical and the equipment is depressured to a control device meeting requirements in paragraphs (a)(1) or (2) of this section, a fuel gas system, or back to the process until one of the following conditions, as applicable, is met.

(i) * * *

(ii) If there is no ability to measure the LEL of the vapor in the equipment based on the design of the equipment, the pressure in the equipment served by the maintenance vent is reduced to 5 pounds per square inch gauge (psig) or less. Upon opening the maintenance vent, active purging of the equipment cannot be used until the LEL of the vapors in the maintenance vent (or inside the equipment if the maintenance is a hatch or similar type of opening) is less than 10 percent.

(iii) The equipment served by the maintenance vent contains less than 72 pounds of total volatile organic compounds (VOC).

(iv) If the maintenance vent is associated with equipment containing pyrophoric catalyst (*e.g.,* hydrotreaters and hydrocrackers) and a pure hydrogen supply is not available at the equipment at the time of the startup, shutdown, maintenance, or inspection activity, the LEL of the vapor in the equipment must be less than 20 percent, except for one event per year not to exceed 35 percent considering all such maintenance vents at the refinery.

(v) If, after applying best practices to isolate and purge equipment served by a maintenance vent, none of the applicable criterion in paragraphs (c)(1)(i) through (iv) can be met prior to installing or removing a blind flange or similar equipment blind, the pressure in the equipment served by the maintenance vent is reduced to 2 psig or less, Active purging of the equipment may be used provided the equipment pressure at the location where purge gas is introduced remains at 2 psig or less.

* * * * *

■ 8. Section 63.644 is amended by revising paragraph (c) introductory text and adding paragraph (c)(3) to read as follows:

§ 63.644 Monitoring provisions for miscellaneous process vents.

* * * * *

(c) The owner or operator of a Group 1 miscellaneous process vent using a vent system that contains bypass lines that could divert a vent stream away from the control device used to comply with paragraph (a) of this section either directly to the atmosphere or to a control device that does not comply with the requirements in § 63.643(a) shall comply with either paragraph (c)(1), (2), or (3) of this section. Use of the bypass at any time to divert a Group 1 miscellaneous process vent stream to the atmosphere or to a control device that does not comply with the requirements in § 63.643(a) is an emissions standards violation. Equipment such as low leg drains and equipment subject to § 63.648 are not subject to this paragraph (c).

* * * * *

(3) Use a cap, blind flange, plug, or a second valve for an open-ended valve or line following the requirements specified in § 60.482–6(a)(2), (b) and (c).

* * * * *

■ 9. Section 63.648 is amended by:

■ a. Revising the introductory text of paragraphs (a), (c), and (j);

■ b. Revising paragraphs (j)(3)(ii)(A) and (E), (j)(3)(iv), (j)(3)(v) introductory text, and (j)(4).

The revisions and additions read as follows:

§ 63.648 Equipment leak standards.

(a) Each owner or operator of an existing source subject to the provisions of this subpart shall comply with the provisions of 40 CFR part 60, subpart VV, and paragraph (b) of this section except as provided in paragraphs (a)(1) through (3), and (c) through (j) of this section. Each owner or operator of a new source subject to the provisions of this subpart shall comply with subpart H of this part except as provided in paragraphs (c) through (j) of this section.

* * * * *

(c) In lieu of complying with the existing source provisions of paragraph (a) in this section, an owner or operator may elect to comply with the requirements of §§ 63.161 through 63.169, 63.171, 63.172, 63.175, 63.176, 63.177, 63.179, and 63.180 of subpart H except as provided in paragraphs (c)(1) through (12) and (e) through (j) of this section.

* * * * *

(j) Except as specified in paragraph (j)(4) of this section, the owner or

operator must comply with the requirements specified in paragraphs (j)(1) and (2) of this section for pressure relief devices, such as relief valves or rupture disks, in organic HAP gas or vapor service instead of the pressure relief device requirements of § 60.482–4 or § 63.165, as applicable. Except as specified in paragraphs (j)(4) and (5) of this section, the owner or operator must also comply with the requirements specified in paragraph (j)(3) of this section for all pressure relief devices in organic HAP service.

* * * * *

(3) * * *

(ii) * * *

(A) Flow, temperature, liquid level and pressure indicators with deadman switches, monitors, or automatic actuators. Independent, non-duplicative systems within this category count as separate redundant prevention measures.

(B) * * *

(C) * * *

(D) * * *

(E) Staged relief system where initial pressure relief device (with lower set release pressure) discharges to a flare or other closed vent system and control device.

* * * * *

(iv) The owner or operator shall determine the total number of release events occurred during the calendar year for each affected pressure relief device separately. The owner or operator shall also determine the total number of release events for each pressure relief device for which the root cause analysis concluded that the root cause was a *force majeure* event, as defined in this subpart.

(v) Except for pressure relief devices described in paragraphs (j)(4) and (5) of this section, the following release events from an affected pressure relief device are a violation of the pressure release management work practice standards.

* * * * *

(4) *Pressure relief devices routed to a control device.* (i) If all releases and potential leaks from a pressure relief device are routed through a closed vent system to a control device, back into the process or to the fuel gas system, the owner or operator is not required to comply with paragraph (j)(1), (2), or (3) (if applicable) of this section.

(ii) If a pilot-operated pressure relief device is used and the primary release valve is routed through a closed vent system to a control device, back into the process or to the fuel gas system, the owner or operator is required to comply only with paragraphs (j)(1) and (2) of this section for the pilot discharge vent and is not required to comply with paragraph (j)(3) of this section for the pilot-operated pressure relief device.

(iii) If a balanced bellows pressure relief device is used and the primary release valve is routed through a closed vent system to a control device, back into the process or to the fuel gas system, the owner or operator is required to comply only with paragraphs (j)(1) and (2) of this section for the bonnet vent and is not required to comply with paragraph (j)(3) of this section for the balanced bellows pressure relief device.

(iv) Both the closed vent system and control device (if applicable) referenced in paragraphs (j)(4)(i) through (iii) of this section must meet the requirements of § 63.644. When complying with this paragraph (j)(4), all references to ''Group 1 miscellaneous process vent'' in § 63.644 mean ''pressure relief device.''

(v) If a pressure relief device complying with this paragraph (j)(4) is routed to the fuel gas system, then on and after January 30, 2019, any flares receiving gas from that fuel gas system must be in compliance with § 63.670.

* * * * *

■ 10. Section 63.655 is amended by:

■ a. Revising the introductory text of paragraph (f);

■ b. Revising paragraphs (f)(1)(i)(A)(*1*) through (*3*), (f)(1)(i)(B)(*3*), (f)(1)(i)(C)(*2*), (f)(1)(iii), (f)(2), (f)(4), (f)(6), (g)(2)(B)(*1*) and (g)(10) introductory text;

■ c. Redesignating paragraph (g)(10)(iii) as (g)(10)(iv);

■ d. Adding new paragraph (g)(10)(iii);

■ e. Revising paragraph (g)(13) introductory text and paragraphs (h)(2)(ii);

■ f. Removing and reserving paragraph (h)(5)(iii)(B);

■ g. Revising paragraph (h)(8);

■ h. Revising paragraphs (h)(9)(i) introductory text and (ii) introductory text;

■ i. Adding new paragraph (h)(10);

■ j. Revising paragraph (i)(3)(ii)(B);

■ k. Adding new paragraphs (i)(3)(ii)(C), (i)(5)(i) through (v);

■ l. Revising paragraphs (i)(7)(iii)(B) and (i)(11) introductory text;

■ m. Adding new paragraph (i)(11)(iv);

■ n. Revising paragraph (i)(12) introductory text and paragraph (i)(12)(iv); and adding new paragraph (i)(12)(vi).

The revisions and additions read as follows:

§ 63.655 Reporting and recordkeeping requirements.

* * * * *

(f) Each owner or operator of a source subject to this subpart shall submit a Notification of Compliance Status report within 150 days after the compliance dates specified in § 63.640(h) with the exception of Notification of Compliance Status reports submitted to comply with § 63.640(l)(3), for storage vessels subject to the compliance schedule specified in § 63.640(h)(2), and for sources listed in Table 11 of this subpart that have a compliance date on or after February 1, 2016. Notification of Compliance Status reports required by § 63.640(l)(3), for storage vessels subject to the compliance dates specified in § 63.640(h)(2), and for sources listed in Table 11 of this subpart that have a compliance date on or after February 1, 2016 shall be submitted according to paragraph (f)(6) of this section. This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, or in any combination of the three. If the required information has been submitted before the date 150 days after the compliance date specified in § 63.640(h), a separate Notification of Compliance Status report is not required within 150 days after the compliance dates specified in § 63.640(h). If an owner or operator submits the information specified in paragraphs (f)(1) through (5) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating and resubmitting the previously submitted information. Each owner or operator of a gasoline loading rack classified under Standard Industrial Classification Code 2911 located within a contiguous area and under common control with a petroleum refinery subject to the standards of this subpart shall submit the Notification of Compliance Status report required by subpart R of this part within 150 days after the compliance dates specified in § 63.640(h).

(1) * * *

(i) * * *

(A) * * *

(*1*) For each Group 1 storage vessel complying with either § 63.646 or § 63.660 that is not included in an emissions average, the method of compliance (*i.e.,* internal floating roof, external floating roof, or closed vent system and control device).

(*2*) For storage vessels subject to the compliance schedule specified in § 63.640(h)(2) that are not complying with § 63.646 or § 63.660 as applicable, the anticipated compliance date.

(*3*) For storage vessels subject to the compliance schedule specified in § 63.640(h)(2) that are complying with § 63.646 or § 63.660, as applicable, and

the Group 1 storage vessels described in § 63.640(l), the actual compliance date.

(B) * * *

(*3*) If the owner or operator elects to submit the results of a performance test, identification of the storage vessel and control device for which the performance test will be submitted, and identification of the emission point(s) that share the control device with the storage vessel and for which the performance test will be conducted. If the performance test is submitted electronically through the EPA's Compliance and Emissions Data Reporting Interface (CEDRI) in accordance with § 63.655(h)(9), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the Notification of Compliance Status is submitted.

(C) * * *

(*2*) If a performance test is conducted instead of a design evaluation, results of the performance test demonstrating that the control device achieves greater than or equal to the required control efficiency. A performance test conducted prior to the compliance date of this subpart can be used to comply with this requirement, provided that the test was conducted using EPA methods and that the test conditions are representative of current operating practices. If the performance test is submitted electronically through the EPA's Compliance and Emissions Data Reporting Interface in accordance with § 63.655(h)(9), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the Notification of Compliance Status is submitted.

* * * * *

(iii) For miscellaneous process vents controlled by control devices required to be tested under § 63.645 of this subpart and § 63.116(c) of subpart G of this part, performance test results including the information in paragraphs (f)(1)(iii)(A) and (B) of this section. Results of a performance test conducted prior to the compliance date of this subpart can be used provided that the test was conducted using the methods specified in § 63.645 and that the test conditions are representative of current operating conditions. If the performance test is submitted electronically through the EPA's Compliance and Emissions Data Reporting Interface in accordance with § 63.655(h)(9), the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in the Notification of Compliance Status in lieu of the performance test results. The performance test results must be submitted to CEDRI by the date the Notification of Compliance Status is submitted.

* * * * *

(2) If initial performance tests are required by §§ 63.643 through 63.653, the Notification of Compliance Status report shall include one complete test report for each test method used for a particular source. On and after February 1, 2016, for data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results in accordance with § 63.655(h)(9) by the date that you submit the Notification of Compliance Status, and you must include the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted in the Notification of Compliance Status. All other performance test results must be reported in the Notification of Compliance Status.

* * * * *

(4) Results of any continuous monitoring system performance evaluations shall be included in the Notification of Compliance Status report, unless the results are required to be submitted electronically by § 63.655(h)(9). For performance evaluation results required to be submitted through CEDRI, submit the results in accordance with § 63.655(h)(9) by the date that you submit the Notification of Compliance Status and include the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation was conducted in the Notification of Compliance Status.

* * * * *

(6) Notification of Compliance Status reports required by § 63.640(l)(3), for storage vessels subject to the compliance dates specified in § 63.640(h)(2), and for sources listed in Table 11 of this subpart that have a compliance date on or after February 1, 2016 shall be submitted no later than 60 days after the end of the 6-month period during which the change or addition was made that resulted in the Group 1 emission point or the existing Group 1 storage vessel was brought into compliance or the requirements with compliance dates on or after February 1, 2016, became effective, and may be combined with the periodic report. Six-month periods shall be the same 6-month periods specified in paragraph (g) of this section. The Notification of Compliance Status report shall include the information specified in paragraphs (f)(1) through (f)(5) of this section. This information may be submitted in an operating permit application, in an amendment to an operating permit application, in a separate submittal, as part of the periodic report, or in any combination of these four. If the required information has been submitted before the date 60 days after the end of the 6-month period in which the addition of the Group 1 emission point took place, a separate Notification of Compliance Status report is not required within 60 days after the end of the 6-month period. If an owner or operator submits the information specified in paragraphs (f)(1) through (f)(5) of this section at different times, and/or in different submittals, later submittals may refer to earlier submittals instead of duplicating and resubmitting the previously submitted information.

* * * * *

(g) * * *

(2) * * *

(B) * * *

(*1*) A failure is defined as any time in which the internal floating roof has defects; or the primary seal has holes, tears, or other openings in the seal or the seal fabric; or the secondary seal (if one has been installed) has holes, tears, or other openings in the seal or the seal fabric; or, for a storage vessel that is part of a new source, the gaskets no longer close off the liquid surface from the atmosphere; or, for a storage vessel that is part of a new source, the slotted membrane has more than a 10 percent open area.

* * * * *

(10) For pressure relief devices subject to the requirements § 63.648(j), Periodic Reports must include the information specified in paragraphs (g)(10)(i) through (iv) of this section.

* * * * *

(iii) For pilot-operated pressure relief devices in organic HAP service, report each pressure release to the atmosphere through the pilot vent that equals or exceeds 72 pounds of VOC per day, including duration of the pressure release through the pilot vent and

estimate of the mass quantity of each organic HAP released.

* * * * *

(13) For maintenance vents subject to the requirements in § 63.643(c), Periodic Reports must include the information specified in paragraphs (g)(13)(i) through (iv) of this section for any release exceeding the applicable limits in § 63.643(c)(1). For the purposes of this reporting requirement, owners or operators complying with § 63.643(c)(1)(iv) must report each venting event for which the lower explosive limit is 20 percent or greater; owners or operators complying with § 63.643(c)(1)(v) must report each venting event conducted under those provisions and include an explanation for each event as to why utilization of this alternative was required.

* * * * *

(h) * * *

(2) * * *

(ii) In order to afford the Administrator the opportunity to have an observer present, the owner or operator of a storage vessel equipped with an external floating roof shall notify the Administrator of any seal gap measurements. The notification shall be made in writing at least 30 calendar days in advance of any gap measurements required by § 63.120(b)(1) or (2) of subpart G or § 63.1063(d)(3) of subpart WW. The State or local permitting authority can waive this notification requirement for all or some storage vessels subject to the rule or can allow less than 30 calendar days' notice.

* * * * *

(8) For fenceline monitoring systems subject to § 63.658, each owner or operator shall submit the following information to the EPA's Compliance and Emissions Data Reporting Interface (CEDRI) on a quarterly basis. (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The first quarterly report must be submitted once the owner or operator has obtained 12 months of data. The first quarterly report must cover the period beginning on the compliance date that is specified in Table 11 of this subpart and ending on March 31, June 30, September 30 or December 31, whichever date is the first date that occurs after the owner or operator has obtained 12 months of data (*i.e.,* the first quarterly report will contain between 12 and 15 months of data). Each subsequent quarterly report must cover one of the following reporting periods: Quarter 1 from January 1 through March 31; Quarter 2 from April 1 through June 30; Quarter 3 from July 1 through September 30; and Quarter 4 from October 1 through December 31. Each quarterly report must be electronically submitted no later than 45 calendar days following the end of the reporting period.

(i) Facility name and address.

(ii) Year and reporting quarter (*i.e.,* Quarter 1, Quarter 2, Quarter 3, or Quarter 4).

(iii) For the first reporting period and for any reporting period in which a passive monitor is added or moved, for each passive monitor: the latitude and longitude location coordinates; the sampler name; and identification of the type of sampler (*i.e.,* regular monitor, extra monitor, duplicate, field blank, inactive). The owner or operator shall determine the coordinates using an instrument with an accuracy of at least 3 meters. Coordinates shall be in decimal degrees with at least five decimal places.

(iv) The beginning and ending dates for each sampling period.

(v) Individual sample results for benzene reported in units of $\mu g/m^3$ for each monitor for each sampling period that ends during the reporting period. Results below the method detection limit shall be flagged as below the detection limit and reported at the method detection limit.

(vi) Data flags that indicate each monitor that was skipped for the sampling period, if the owner or operator uses an alternative sampling frequency under § 63.658(e)(3).

(vii) Data flags for each outlier determined in accordance with Section 9.2 of Method 325A of appendix A of this part. For each outlier, the owner or operator must submit the individual sample result of the outlier, as well as the evidence used to conclude that the result is an outlier.

(viii) Based on the information provided for the individual sample results, CEDRI will calculate the biweekly concentration difference (Δc) for benzene for each sampling period and the annual average Δc for benzene for each sampling period. The owner or operator may change these calculated values, but an explanation must be provided whenever a calculated value is changed.

(9) * * *

(i) Unless otherwise specified by this subpart, within 60 days after the date of completing each performance test as required by this subpart, the owner or operator shall submit the results of the performance tests following the procedure specified in either paragraph (h)(9)(i)(A) or (B) of this section.

* * * * *

(ii) Unless otherwise specified by this subpart, within 60 days after the date of completing each CEMS performance evaluation as required by this subpart, the owner or operator must submit the results of the performance evaluation following the procedure specified in either paragraph (h)(9)(ii)(A) or (B) of this section.

* * * * *

(10) Extensions to electronic reporting deadlines.

(i) If you are required to electronically submit a report through the Compliance and Emissions Data Reporting Interface (CEDRI) in the EPA's Central Data Exchange (CDX), and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(ii) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this paragraph, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by

the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

* * * * *

(i) * * *

(3) * * *

(ii) * * *

(B) Block average values for 1 hour or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values; or

(C) All values that meet the set criteria for variation from previously recorded values using an automated data compression recording system.

(*1*) The automated data compression recording system shall be designed to:

(*i*) Measure the operating parameter value at least once every hour.

(*ii*) Record at least 24 values each day during periods of operation.

(*iii*) Record the date and time when monitors are turned off or on.

(*iv*) Recognize unchanging data that may indicate the monitor is not functioning properly, alert the operator, and record the incident.

(*v*) Compute daily average values of the monitored operating parameter based on recorded data.

(*2*) You must maintain a record of the description of the monitoring system and data compression recording system including the criteria used to determine which monitored values are recorded and retained, the method for calculating daily averages, and a demonstration that the system meets all criteria of paragraph (i)(3)(ii)(C)(*1*) of this section.

* * * * *

(5) * * *

(i) Identification of all petroleum refinery process unit heat exchangers at the facility and the average annual HAP concentration of process fluid or intervening cooling fluid estimated when developing the Notification of Compliance Status report.

(ii) Identification of all heat exchange systems subject to the monitoring requirements in § 63.654 and identification of all heat exchange systems that are exempt from the monitoring requirements according to the provisions in § 63.654(b). For each heat exchange system that is subject to the monitoring requirements in § 63.654, this must include identification of all heat exchangers within each heat exchange system, and, for closed-loop recirculation systems, the cooling tower included in each heat exchange system.

(iii) Results of the following monitoring data for each required monitoring event:

(A) Date/time of event.

(B) Barometric pressure.

(C) El Paso air stripping apparatus water flow milliliter/minute (ml/min) and air flow, ml/min, and air temperature, °Celsius.

(D) FID reading (ppmv).

(E) Length of sampling period.

(F) Sample volume.

(G) Calibration information identified in Section 5.4.2 of the ''Air Stripping Method (Modified El Paso Method) for Determination of Volatile Organic Compound Emissions from Water Sources'' Revision Number One, dated January 2003, Sampling Procedures Manual, Appendix P: Cooling Tower Monitoring, prepared by Texas Commission on Environmental Quality, January 31, 2003 (incorporated by reference—see § 63.14).

(iv) The date when a leak was identified, the date the source of the leak was identified, and the date when the heat exchanger was repaired or taken out of service.

(v) If a repair is delayed, the reason for the delay, the schedule for completing the repair, the heat exchange exit line flow or cooling tower return line average flow rate at the monitoring location (in gallons/minute), and the estimate of potential strippable hydrocarbon emissions for each required monitoring interval during the delay of repair.

* * * * *

(7) * * *

(iii) * * *

(B) The pressure or temperature of the coke drum vessel, as applicable, for the 5-minute period prior to the pre-vent draining.

* * * * *

(11) For each pressure relief device subject to the pressure release management work practice standards in § 63.648(j)(3), the owner or operator shall keep the records specified in paragraphs (i)(11)(i) through (iii) of this section. For each pilot-operated pressure relief device subject to the requirements at § 63.648(j)(4)(ii) or (iii), the owner or operator shall keep the records specified in paragraph (i)(11)(iv) of this section.

* * * * *

(iv) For pilot-operated pressure relief devices, general or release-specific records for estimating the quantity of VOC released from the pilot vent during a release event, and records of calculations used to determine the quantity of specific HAP released for any event or series of events in which 72 or more pounds of VOC are released in a day.

(12) For each maintenance vent opening subject to the requirements in § 63.643(c), the owner or operator shall keep the applicable records specified in (i)(12)(i) through (vi) of this section.

* * * * *

(iv) If complying with the requirements of § 63.643(c)(1)(iii), records used to estimate the total quantity of VOC in the equipment and the type and size limits of equipment that contain less than 72 pounds of VOC at the time of maintenance vent opening. For each maintenance vent opening for which the deinventory procedures specified in paragraph (i)(12)(i) of this section are not followed or for which the equipment opened exceeds the type and size limits established in the records specified in this paragraph, identification of the maintenance vent, the process units or equipment associated with the maintenance vent, the date of maintenance vent opening, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere.

* * * * *

(vi) If complying with the requirements of § 63.643(c)(1)(v), identification of the maintenance vent, the process units or equipment associated with the maintenance vent,

records documenting actions taken to comply with other applicable alternatives and why utilization of this alternative was required, the date of maintenance vent opening, the equipment pressure and lower explosive limit of the vapors in the equipment at the time of discharge, an indication of whether active purging was performed and the pressure of the equipment during the installation or removal of the blind if active purging was used, the duration the maintenance vent was open during the blind installation or removal process, and records used to estimate the total quantity of VOC in the equipment at the time the maintenance vent was opened to the atmosphere for each applicable maintenance vent opening.

* * * * *

■ 11. Section 63.657 is amended by revising paragraphs (a)(1)(i) and (ii), (a)(2)(i) and (ii), (b)(5), and (e) to read as follows:

§ 63.657 Delayed coking unit decoking operation standards.

(a) * * *

(1) * * *

(i) An average vessel pressure of 2 psig or less determined on a rolling 60-event average; or

(ii) An average vessel temperature of 220 degrees Fahrenheit or less determined on a rolling 60-event average.

(2) * * *

(i) A vessel pressure of 2.0 psig or less for each decoking event; or

(ii) A vessel temperature of 218 degrees Fahrenheit or less for each decoking event.

* * * * *

(b) * * *

(5) The output of the pressure monitoring system must be reviewed each day the unit is operated to ensure that the pressure readings fluctuate as expected between operating and cooling/decoking cycles to verify the pressure taps are not plugged. Plugged pressure taps must be unplugged or otherwise repaired prior to the next operating cycle.

* * * * *

(e) The owner or operator of a delayed coking unit using the ''water overflow'' method of coke cooling prior to complying with the applicable requirements in paragraph (a) of this section must overflow the water to a separator or similar disengaging device that is operated in a manner to prevent entrainment of gases from the coke drum vessel to the overflow water storage tank. Gases from the separator or disengaging device must be routed to a closed blowdown system or otherwise controlled following the requirements for a Group 1 miscellaneous process vent. The liquid from the separator or disengaging device must be hardpiped to the overflow water storage tank or similarly transported to prevent exposure of the overflow water to the atmosphere. The overflow water storage tank may be an open or uncontrolled fixed-roof tank provided that a submerged fill pipe (pipe outlet below existing liquid level in the tank) is used to transfer overflow water to the tank. The owner or operator of a delayed coking unit using the ''water overflow'' method of coke cooling subject to this paragraph shall determine the coke drum vessel temperature as specified in paragraphs (c) and (d) of this section and shall not otherwise drain or vent the coke drum until the coke drum vessel temperature is at or below the applicable limits in paragraph (a)(1)(ii) or (a)(2)(ii) of this section.

* * * * *

■ 12. Section 63.658 is amended by revising paragraphs (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (e) introductory text, (e)(3)(iv), (f)(1)(i), and (f)(1)(i)(B) to read as follows:

§ 63.658 Fenceline monitoring provisions.

* * * * *

(c) * * *

(1) As it pertains to this subpart, known sources of VOCs, as used in Section 8.2.1.3 in Method 325A of appendix A of this part for siting passive monitors, means a wastewater treatment unit, process unit, or any emission source requiring control according to the requirements of this subpart, including marine vessel loading operations. For marine vessel loading operations, one passive monitor should be sited on the shoreline adjacent to the dock. For this subpart, an additional monitor is not required if the only emission sources within 50 meters of the monitoring boundary are equipment leak sources satisfying all of the conditions in paragraphs (c)(1)(i) through (iv) of this section.

(i) The equipment leak sources in organic HAP service within 50 meters of the monitoring boundary are limited to valves, pumps, connectors, sampling connections, and open-ended lines. If compressors, pressure relief devices, or agitators in organic HAP service are present within 50 meters of the monitoring boundary, the additional passive monitoring location specified in Section 8.2.1.3 in Method 325A of appendix A of this part must be used.

(ii) All equipment leak sources in gas or light liquid service (and in organic HAP service), including valves, pumps, connectors, sampling connections and open-ended lines, must be monitored using EPA Method 21 of 40 CFR part 60, appendix A–7 no less frequently than quarterly with no provisions for skip period monitoring, or according to the provisions of 63.11(c) Alternative Work practice for monitoring equipment for leaks. For the purpose of this provision, a leak is detected if the instrument reading equals or exceeds the applicable limits in paragraphs (c)(1)(ii)(A) through (E) of this section:

(A) For valves, pumps or connectors at an existing source, an instrument reading of 10,000 ppmv.

(B) For valves or connectors at a new source, an instrument reading of 500 ppmv.

(C) For pumps at a new source, an instrument reading of 2,000 ppmv.

(D) For sampling connections or open-ended lines, an instrument reading of 500 ppmv above background.

(E) For equipment monitored according to the Alternative Work practice for monitoring equipment for leaks, the leak definitions contained in 63.11 (c) (6)(i) through (iii).

(iii) All equipment leak sources in organic HAP service, including sources in gas, light liquid and heavy liquid service, must be inspected using visual, audible, olfactory, or any other detection method at least monthly. A leak is detected if the inspection identifies a potential leak to the atmosphere or if there are indications of liquids dripping.

(iv) All leaks identified by the monitoring or inspections specified in paragraphs (c)(1)(ii) or (iii) of this section must be repaired no later than 15 calendar days after it is detected with no provisions for delay of repair. If a repair is not completed within 15 calendar days, the additional passive monitor specified in Section 8.2.1.3 in Method 325A of appendix A of this part must be used.

(2) The owner or operator may collect one or more background samples if the owner or operator believes that an offsite upwind source or an onsite source excluded under § 63.640(g) may influence the sampler measurements. If the owner or operator elects to collect one or more background samples, the owner or operator must develop and submit a site-specific monitoring plan for approval according to the requirements in paragraph (i) of this section. Upon approval of the site-specific monitoring plan, the background sampler(s) should be operated co-currently with the routine samplers.

(3) If there are 19 or fewer monitoring locations, the owner or operator shall

collect at least one co-located duplicate sample per sampling period and at least one field blank per sampling period. If there are 20 or more monitoring locations, the owner or operator shall collect at least two co-located duplicate samples per sampling period and at least one field blank per sampling period. The co-located duplicates may be collected at any of the perimeter sampling locations.

* * * * *

(d) * * *

(1) If a near-field source correction is used as provided in paragraph (i)(2) of this section or if an alternative test method is used that provides time-resolved measurements, the owner or operator shall:

* * * * *

(2) For cases other than those specified in paragraph (d)(1) of this section, the owner or operator shall collect and record sampling period average temperature and barometric pressure using either an on-site meteorological station in accordance with Section 8.3.1 through 8.3.3 of Method 325A of appendix A of this part or, alternatively, using data from a United States Weather Service (USWS) meteorological station provided the USWS meteorological station is within 40 kilometers (25 miles) of the refinery.

* * * * *

(e) The owner or operator shall use a sampling period and sampling frequency as specified in paragraphs (e)(1) through (3) of this section.

* * * * *

(3) * * *

(iv) If every sample at a monitoring site that is monitored at the frequency specified in paragraph (e)(3)(iii) of this section is at or below 0.9 $\mu g/m^3$ for 2 years (*i.e.,* 4 consecutive semi-annual samples), only one sample per year is required for that monitoring site. For yearly sampling, samples shall occur at least 10 months but no more than 14 months apart.

* * * * *

(f) * * *

(1) * * *

(i) Except when near-field source correction is used as provided in paragraph (i) of this section, the owner or operator shall determine the highest and lowest sample results for benzene concentrations from the sample pool and calculate Δc as the difference in these concentrations. Co-located samples must be averaged together for the purposes of determining the benzene concentration for that sampling location, and, if applicable, for determining Δc. The owner or operator shall adhere to the following procedures when one or more samples for the sampling period are below the method detection limit for benzene:

* * * * *

(B) If all sample results are below the method detection limit, the owner or operator shall use the method detection limit as the highest sample result and zero as the lowest sample result when calculating Δc.

* * * * *

■ 13. Section 63.660 is amended by revising the undesignated introductory text, paragraph (b) introductory text, paragraphs (b)(1), (e) and (i)(2) to read as follows:

§ 63.660 Storage vessel provisions.

On and after the applicable compliance date for a Group 1 storage vessel located at a new or existing source as specified in § 63.640(h), the owner or operator of a Group 1 storage vessel storing liquid with a maximum true vapor pressure less than 76.6 kilopascals (11.0 pounds per square inch) that is part of a new or existing source shall comply with either the requirements in subpart WW or SS of this part according to the requirements in paragraphs (a) through (i) of this section and the owner or operator of a Group 1 storage vessel storing liquid with a maximum true vapor pressure greater than or equal to 76.6 kilopascals (11.0 pounds per square inch) that is part of a new or existing source shall comply with the requirements in subpart SS of this part according to the requirements in paragraphs (a) through (i) of this section.

* * * * *

(b) A floating roof storage vessel complying with the requirements of subpart WW of this part may comply with the control option specified in paragraph (b)(1) of this section and, if equipped with a ladder having at least one slotted leg, shall comply with one of the control options as described in paragraph (b)(2) of this section. If the floating roof storage vessel does not meet the requirements of § 63.1063(a)(2)(i) through (a)(2)(viii) as of June 30, 2014, these requirements do not apply until the next time the vessel is completely emptied and degassed, or January 30, 2026, whichever occurs first.

(1) In addition to the options presented in §§ 63.1063(a)(2)(viii)(A) and (B) and 63.1064, a floating roof storage vessel may comply with § 63.1063(a)(2)(viii) using a flexible enclosure device and either a gasketed or welded cap on the top of the guidepole.

* * * * *

(e) For storage vessels previously subject to requirements in § 63.646, initial inspection requirements in § 63.1063(c)(1) and (2)(i) (*i.e.,* those related to the initial filling of the storage vessel) or in § 63.983(b)(1)(A), as applicable, are not required. Failure to perform other inspections and monitoring required by this section shall constitute a violation of the applicable standard of this subpart.

* * * * *

(i) * * *

(2) If a closed vent system contains a bypass line, the owner or operator shall comply with the provisions of either § 63.983(a)(3)(i) or (ii) for each closed vent system that contains bypass lines that could divert a vent stream either directly to the atmosphere or to a control device that does not comply with the requirements in subpart SS of this part. Except as provided in paragraphs (i)(2)(i) and (ii) of this section, use of the bypass at any time to divert a Group 1 storage vessel either directly to the atmosphere or to a control device that does not comply with the requirements in subpart SS of this part is an emissions standards violation. Equipment such as low leg drains and equipment subject to § 63.648 are not subject to this paragraph (i)(2).

* * * * *

■ 14. Section 63.670 is amended by:

■ a. Revising paragraph (f);

■ b. Revising paragraphs (h) introductory text, (h)(1), and (i) introductory text;

■ c. Adding new paragraphs (i)(5) and (6);

■ d. Revising paragraphs (j)(6);

■ h. Revising the definition of the Q_{cum} term in the equation in paragraph (k)(3);

■ i. Revising paragraph (m)(2) introductory text;

■ j. Revising the definitions of the Q_{NG2}, Q_{NG1}, and NHV_{NG} terms in the equation in paragraph (m)(2);

■ j. Revising paragraph (n)(2) introductory text and the definitions of the Q_{NG2}, Q_{NG1}, and NHV_{NG} terms in the equation in paragraph (n)(2); and

■ l. Revising paragraphs (o) introductory text, (o)(1)(ii)(B), (o)(1)(iii)(B), and (o)(3)(i). The revisions and additions read as follows:

§ 63.670 Requirements for flare control devices.

* * * * *

(f) *Dilution operating limits for flares with perimeter assist air.* Except as provided in paragraph (f)(1) of this section, for each flare actively receiving perimeter assist air, the owner or operator shall operate the flare to maintain the net heating value dilution

parameter (NHVdil) at or above 22 British thermal units per square foot (Btu/ft²) determined on a 15-minute block period basis when regulated material is being routed to the flare for at least 15-minutes. The owner or operator shall monitor and calculate NHV_{dil} as specified in paragraph (n) of this section.

(1) If the only assist air provided to a specific flare is perimeter assist air intentionally entrained in lower and upper steam at the flare tip and the flare tip diameter is 9 inches or greater, the owner or operator shall comply only with the NHV_{cz} operating limit in paragraph (e) of this section for that flare.

(2) Reserved.

* * * * *

(h) *Visible emissions monitoring.* The owner or operator shall conduct an initial visible emissions demonstration using an observation period of 2 hours using Method 22 at 40 CFR part 60, appendix A–7. The initial visible emissions demonstration should be conducted the first time regulated materials are routed to the flare. Subsequent visible emissions observations must be conducted using either the methods in paragraph (h)(1) of this section or, alternatively, the methods in paragraph (h)(2) of this section. The owner or operator must record and report any instances where visible emissions are observed for more than 5 minutes during any 2 consecutive hours as specified in § 63.655(g)(11)(ii).

(1) At least once per day for each day regulated material is routed to the flare, conduct visible emissions observations using an observation period of 5 minutes using Method 22 at 40 CFR part 60, appendix A–7. If at any time the owner or operator sees visible emissions while regulated material is routed to the flare, even if the minimum required daily visible emission monitoring has already been performed, the owner or operator shall immediately begin an observation period of 5 minutes using Method 22 at 40 CFR part 60, appendix A–7. If visible emissions are observed for more than one continuous minute during any 5-minute observation period, the observation period using Method 22 at 40 CFR part 60, appendix A–7 must be extended to 2 hours or until 5-minutes of visible emissions are observed. Daily 5-minute Method 22 observations are not required to be conducted for days the flare does not receive any regulated material.

* * * * *

(i) *Flare vent gas, steam assist and air assist flow rate monitoring.* The owner or operator shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording the volumetric flow rate in the flare header or headers that feed the flare as well as any flare supplemental gas used. Different flow monitoring methods may be used to measure different gaseous streams that make up the flare vent gas provided that the flow rates of all gas streams that contribute to the flare vent gas are determined. If assist air or assist steam is used, the owner or operator shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording the volumetric flow rate of assist air and/or assist steam used with the flare. If pre-mix assist air and perimeter assist are both used, the owner or operator shall install, operate, calibrate, and maintain a monitoring system capable of separately measuring, calculating, and recording the volumetric flow rate of premix assist air and perimeter assist air used with the flare. Flow monitoring system requirements and acceptable alternatives are provided in paragraphs (i)(1) through (6) of this section.

* * * * *

(5) Continuously monitoring fan speed or power and using fan curves is an acceptable method for continuously monitoring assist air flow rates.

(6) For perimeter assist air intentionally entrained in lower and upper steam, the monitored steam flow rate and the maximum design air-to-steam volumetric flow ratio of the entrainment system may be used to determine the assist air flow rate.

(j) * * *

(6) Direct compositional or net heating value monitoring is not required for gas streams that have been demonstrated to have consistent composition (or a fixed minimum net heating value) according to the methods in paragraphs (j)(6)(i) through (iii) of this section.

* * * * *

(k) * * *

(3) * * *

* * * * *

Q_{cum} = Cumulative volumetric flow over 15-minute block average period, standard cubic feet.

* * * * *

(m) * * *

(2) Owners or operators of flares that use the feed-forward calculation methodology in paragraph (l)(5)(i) of this section and that monitor gas composition or net heating value in a location representative of the cumulative vent gas stream and that directly monitor flare supplemental gas flow additions to the flare must determine the 15-minute block average NHV_{cz} using the following equation.

* * * * *

Q_{NG2} = Cumulative volumetric flow of flare supplemental gas during the 15-minute block period, scf.

Q_{NG1} = Cumulative volumetric flow of flare supplemental gas during the previous 15-minute block period, scf. For the first 15-minute block period of an event, use the volumetric flow value for the current 15-minute block period, *i.e.,* $Q_{NG1}=Q_{NG2}$.

NHV_{NG} = Net heating value of flare supplemental gas for the 15-minute block period determined according to the requirements in paragraph (j)(5) of this section, Btu/scf.

* * * * *

(n) * * *

(2) Owners or operators of flares that use the feed-forward calculation methodology in paragraph (l)(5)(i) of this section and that monitor gas composition or net heating value in a location representative of the cumulative vent gas stream and that directly monitor flare supplemental gas flow additions to the flare must determine the 15-minute block average NHV_{dil} using the following equation only during periods when perimeter assist air is used. For 15-minute block periods when there is no cumulative volumetric flow of perimeter assist air, the 15-minute block average NHV_{dil} parameter does not need to be calculated.

* * * * *

Q_{NG2} = Cumulative volumetric flow of flare supplemental gas during the 15-minute block period, scf.

Q_{NG1} = Cumulative volumetric flow of flare supplemental gas during the previous 15-minute block period, scf. For the first 15-minute block period of an event, use the volumetric flow value for the current 15-minute block period, *i.e.,* $Q_{NG1}=Q_{NG2}$.

NHV_{NG} = Net heating value of flare supplemental gas for the 15-minute block period determined according to the requirements in paragraph (j)(5) of this section, Btu/scf.

* * * * *

(o) *Emergency flaring provisions.* The owner or operator of a flare that has the potential to operate above its smokeless capacity under any circumstance shall comply with the provisions in paragraphs (o)(1) through (7) of this section.

(1) * * *

(ii) * * *

(B) Implementation of prevention measures listed for pressure relief devices in § 63.648(j)(3)(ii)(A) through (E) for each pressure relief device that can discharge to the flare.

* * * * *

(iii) * * *

(B) The smokeless capacity of the flare based on a 15-minute block average and design conditions. Note: A single value must be provided for the smokeless capacity of the flare.

* * * * *

(3) * * *

(i) The vent gas flow rate exceeds the smokeless capacity of the flare based on a 15-minute block average and visible emissions are present from the flare for more than 5 minutes during any 2 consecutive hours during the release event.

* * * * *

■ 15. Table 6 to Subpart CC is amended by revising the entries ''63.6(f)(3)'', ''63.6(h)(8)'', 63.7(a)(2)'', ''63.7(f)'', ''63.7(h)(3)'', and ''63.8(e)'' to read as follows:

TABLE 6—GENERAL PROVISIONS APPLICABILITY TO SUBPART CC [a]

Reference	Applies to subpart CC	Comment
* *	*	* * * * *
63.6(f)(3)	Yes	Except the cross-references to § 63.6(f)(1) and (e)(1)(i) are changed to § 63.642(n) and performance test results may be written or electronic.
* *	*	* * * * *
63.6(h)(8)	Yes	Except performance test results may be written or electronic.
* *	*	* * * * *
63.7(a)(2)	Yes	Except test results must be submitted in the Notification of Compliance Status report due 150 days after compliance date, as specified in § 63.655(f) of subpart CC, unless they are required to be submitted electronically in accordance with § 63.655(h)(9). Test results required to be submitted electronically must be submitted by the date the Notification of Compliance Status report is submitted.
* *	*	* * * * *
63.7(f)	Yes	Except that additional notification or approval is not required for alternatives directly specified in Subpart CC.
* *	*	* * * * *
63.7(h)(3)	Yes	Yes, except site-specific test plans shall not be required, and where § 63.7(h)(3)(i) specifies waiver submittal date, the date shall be 90 days prior to the Notification of Compliance Status report in § 63.655(f).
* *	*	* * * * *
63.8(e)	Yes	Except that results are to be submitted electronically if required by § 63.655(h)(9).
* *	*	* * * * *

* * * * *

■ 16. Table 13 to Subpart CC is amended by revising the entry ''Hydrogen analyzer'' to read as follows:

TABLE 13—CALIBRATION AND QUALITY CONTROL REQUIREMENTS FOR CPMS

Parameter	Minimum accuracy requirements	Calibration requirements
* *	*	* * * * *
Hydrogen analyzer	±2 percent over the concentration measured or 0.1 volume percent, whichever is greater.	Specify calibration requirements in your site specific CPMS monitoring plan. Calibration requirements should follow manufacturer's recommendations at a minimum. Where feasible, select the sampling location at least two equivalent duct diameters from the nearest control device, point of pollutant generation, air in-leakages, or other point at which a change in the pollutant concentration occurs.
* *	*	* * * * *

Subpart UUU—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

■ 17. Section 63.1564 is amended by revising the first sentence in paragraphs (b)(4)(iii), (c)(3), and (c)(4) and revising paragraph (c)(5)(iii) to read as follows:

§ 63.1564 What are my requirements for metal HAP emissions from catalytic cracking units?

* * * * *

(b) * * *

(4) * * *

(iii) If you elect Option 3 in paragraph (a)(1)(v) of this section, the Ni lb/hr emission limit, compute your Ni emission rate using Equation 5 of this section and your site-specific Ni operating limit (if you use a continuous opacity monitoring system) using Equations 6 and 7 of this section as follows: * * *

* * * * *

(c) * * *

(3) If you use a continuous opacity monitoring system and elect to comply with Option 3 in paragraph (a)(1)(v) of this section, determine continuous compliance with your site-specific Ni operating limit by using Equation 11 of this section as follows: * * *

(4) If you use a continuous opacity monitoring system and elect to comply with Option 4 in paragraph (a)(1)(vi) of this section, determine continuous compliance with your site-specific Ni operating limit by using Equation 12 of this section as follows: * * *

(5) * * *

(iii) Calculating the inlet velocity to the primary internal cyclones in feet per second (ft/sec) by dividing the average volumetric flow rate (acfm) by the cumulative cross-sectional area of the primary internal cyclone inlets (ft^2) and by 60 seconds/minute (for unit conversion).

* * * * *

■ 18. Section 63.1565 is amended by revising paragraph (a)(5)(ii) to read as follows:

§ 63.1565 What are my requirements for organic HAP emissions from catalytic cracking units?

(a) * * *

(5) * * *

(ii) You can elect to maintain the oxygen (O_2) concentration in the exhaust gas from your catalyst regenerator at or above 1 volume percent (dry basis) or 1 volume percent (wet basis with no moisture correction).

* * * * *

■ 19. Section 63.1569 is amended by revising paragraph (c)(2) to read as follows:

§ 63.1569 What are my requirements for HAP emissions from bypass lines?

* * * * *

(c) * * *

(2) Demonstrate continuous compliance with the work practice standard in paragraph (a)(3) of this section by complying with the procedures in your operation, maintenance, and monitoring plan.

■ 20. Section 63.1571 is amended by revising the paragraphs (a) introductory text, (a)(5) introductory text and (a)(6) introductory text, and by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 63.1571 How and when do I conduct a performance test or other initial compliance demonstration?

(a) *When must I conduct a performance test?* You must conduct initial performance tests and report the results by no later than 150 days after the compliance date specified for your source in § 63.1563 and according to the provisions in § 63.7(a)(2) and § 63.1574(a)(3). If you are required to do a performance evaluation or test for a semi-regenerative catalytic reforming unit catalyst regenerator vent, you may do them at the first regeneration cycle after your compliance date and report the results in a followup Notification of Compliance Status report due no later than 150 days after the test. You must conduct additional performance tests as specified in paragraphs (a)(5) and (6) of this section and report the results of these performance tests according to the provisions in § 63.1575(f).

* * * * *

(5) *Periodic performance testing for PM or Ni.* Except as provided in paragraphs (a)(5)(i) and (ii) of this section, conduct a periodic performance test for PM or Ni for each catalytic cracking unit at least once every 5 years according to the requirements in Table 4 of this subpart. You must conduct the first periodic performance test no later than August 1, 2017 or within 60 days of startup of a new unit.

* * * * *

(6) *One-time performance testing for Hydrogen Cyanide (HCN).* Conduct a performance test for HCN from each catalytic cracking unit no later than August 1, 2017 or within 60 days of startup of a new unit according to the applicable requirements in paragraphs (a)(6)(i) and (ii) of this section.

* * * * *

(d) * * *

(1) If you must meet the HAP metal emission limitations in § 63.1564, you elect the option in paragraph (a)(1)(v) in § 63.1564 (Ni lb/hr), and you use continuous parameter monitoring systems, you must establish an operating limit for the equilibrium catalyst Ni concentration based on the laboratory analysis of the equilibrium catalyst Ni concentration from the initial performance test. Section 63.1564(b)(2) allows you to adjust the laboratory measurements of the equilibrium catalyst Ni concentration to the maximum level. You must make this adjustment using Equation 1 of this section as follows: * * *

(2) If you must meet the HAP metal emission limitations in § 63.1564, you elect the option in paragraph (a)(1)(vi) in § 63.1564 (Ni per coke burn-off), and you use continuous parameter monitoring systems, you must establish an operating limit for the equilibrium catalyst Ni concentration based on the laboratory analysis of the equilibrium catalyst Ni concentration from the initial performance test. Section 63.1564(b)(2) allows you to adjust the laboratory measurements of the equilibrium catalyst Ni concentration to the maximum level. You must make this adjustment using Equation 2 of this section as follows: * * *

* * * * *

■ 21. Section 63.1572 is amended by revising paragraphs (c)(1) and (d)(1) to read as follows:

§ 63.1572 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(c) * * *

(1) You must install, operate, and maintain each continuous parameter monitoring system according to the requirements in Table 41 of this subpart. You must also meet the equipment specifications in Table 41 of this subpart if pH strips or colormetric tube sampling systems are used. You must meet the requirements in Table 41 of this subpart for BLD systems. Alternatively, before August 1, 2017, you may install, operate, and maintain each continuous parameter monitoring system in a manner consistent with the manufacturer's specifications or other written procedures that provide adequate assurance that the equipment will monitor accurately.

* * * * *

(d) * * *

(1) Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including as applicable, calibration checks and required zero

and span adjustments), you must conduct all monitoring in continuous operation (or collect data at all required intervals) at all times the affected source is operating.

* * * * *

■ 22. Section 63.1573 is amended by revising paragraph (a)(1) introductory text to read as follows:

§ 63.1573 What are my monitoring alternatives?

(a) *What are the approved alternatives for measuring gas flow rate?* (1) You may use this alternative to a continuous parameter monitoring system for the catalytic regenerator exhaust gas flow rate for your catalytic cracking unit if the unit does not introduce any other gas streams into the catalyst regeneration vent (*i.e.,* complete combustion units with no additional combustion devices). You may also use this alternative to a continuous parameter monitoring system for the catalytic regenerator atmospheric exhaust gas flow rate for your catalytic reforming unit during the coke burn and rejuvenation cycles if the unit operates as a constant pressure system during these cycles. You may also use this alternative to a continuous parameter monitoring system for the gas flow rate exiting the catalyst regenerator to determine inlet velocity to the primary internal cyclones as required in § 63.1564(c)(5) regardless of the configuration of the catalytic regenerator exhaust vent downstream of the regenerator (*i.e.,* regardless of whether or not any other gas streams are introduced into the catalyst regeneration vent). If you use this alternative, you shall use the same procedure for the performance test and for monitoring after the performance test. You shall:

* * * * *

■ 23. Section 63.1574 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 63.1574 What notifications must I submit and when?

(a) * * *

(3) * * *

(ii) For each initial compliance demonstration that includes a performance test, you must submit the notification of compliance status no later than 150 calendar days after the compliance date specified for your affected source in § 63.1563. For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results in accordance with § 63.1575(k)(1)(i) by the date that you submit the Notification of Compliance Status, and you must include the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted in the Notification of Compliance Status. For performance evaluations of continuous monitoring systems (CMS) measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation, you must submit the results in accordance with § 63.1575(k)(2)(i) by the date that you submit the Notification of Compliance Status, and you must include the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation was conducted in the Notification of Compliance Status. All other performance test and performance evaluation results (*i.e.,* those not supported by EPA's ERT) must be reported in the Notification of Compliance Status.

* * * * *

■ 24. Section 63.1575 is amended by revising paragraphs (f)(1), (k)(1) introductory text and (k)(2) introductory text, and adding paragraph (l) to read as follows.

§ 63.1575 What reports must I submit and when?

* * * * *

(f) * * *

(1) A copy of any performance test or performance evaluation of a CMS done during the reporting period on any affected unit, if applicable. The report must be included in the next semiannual compliance report. The copy must include a complete report for each test method used for a particular kind of emission point tested. For additional tests performed for a similar emission point using the same method, you must submit the results and any other information required, but a complete test report is not required. A complete test report contains a brief process description; a simplified flow diagram showing affected processes, control equipment, and sampling point locations; sampling site data; description of sampling and analysis procedures and any modifications to standard procedures; quality assurance procedures; record of operating conditions during the test; record of preparation of standards; record of calibrations; raw data sheets for field sampling; raw data sheets for field and laboratory analyses; documentation of calculations; and any other information required by the test method. For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results in accordance with § 63.1575(k)(1)(i) by the date that you submit the compliance report, and instead of including a copy of the test report in the compliance report, you must include the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted in the compliance report. For performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation, you must submit the results in accordance with § 63.1575(k)(2)(i) by the date that you submit the compliance report, and you must include the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation was conducted in the compliance report. All other performance test and performance evaluation results (*i.e.,* those not supported by EPA's ERT) must be reported in the compliance report.

* * * * *

(k) * * *

(1) Unless otherwise specified by this subpart, within 60 days after the date of completing each performance test as required by this subpart, you must submit the results of the performance tests following the procedure specified in either paragraph (k)(1)(i) or (ii) of this section.

* * * * *

(2) Unless otherwise specified by this subpart, within 60 days after the date of completing each CEMS performance evaluation required by § 63.1571(a) and (b), you must submit the results of the performance evaluation following the procedure specified in either paragraph (k)(2)(i) or (ii) of this section.

* * * * *

(l) *Extensions to electronic reporting deadlines.* (1) If you are required to electronically submit a report through the Compliance and Emissions Data Reporting Interface (CEDRI) in the EPA's Central Data Exchange (CDX), and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting

requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(2) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 25. Section 63.1576 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 63.1576 What records must I keep, in what form, and for how long?

(a) * * *

(2) * * *

(i) Record the date, time, and duration of each startup and/or shutdown period for which the facility elected to comply with the alternative standards in § 63.1564(a)(5)(ii) or § 63.1565(a)(5)(ii) or § 63.1568(a)(4)(ii) or (iii).

* * * * *

■ 26. Table 3 to Subpart UUU is amended by revising the table title and entries for items 2.c, 6, 7, 8 and 9 to read as follows:

* * * * *

TABLE 3 TO SUBPART UUU OF PART 63—CONTINUOUS MONITORING SYSTEMS FOR METAL HAP EMISSIONS FROM CATALYTIC CRACKING UNITS

For each new or existing catalytic cracking unit . . .	If you use this type of control device for your vent . . .	You shall install, operate, and maintain a . . .
* * *	*	* * *
2. * * *		
	c. Wet scrubber	Continuous parameter monitoring system to measure and record the pressure drop across the scrubber,[2] the gas flow rate entering or exiting the control device,[1] and total liquid (or scrubbing liquor) flow rate to the control device.
* * *	*	* * *
6. Option 1a: Elect NSPS subpart J, PM per coke burn-off limit, not subject to the NSPS for PM in 40 CFR 60.102 or 60.102a(b)(1).	Any	See item 1 of this table.
7. Option 1b: Elect NSPS subpart Ja, PM per coke burn-off limit, not subject to the NSPS for PM in 40 CFR 60.102 or 60.102a(b)(1).	Any	The applicable continuous monitoring systems in item 2 of this table.
8. Option 1c: Elect NSPS subpart Ja, PM concentration limit not subject to the NSPS for PM in 40 CFR 60.102 or 60.102a(b)(1).	Any	See item 3 of this table.
9. Option 2: PM per coke burn-off limit, not subject to the NSPS for PM in 40 CFR 60.102 or 60.102a(b)(1).	Any	The applicable continuous monitoring systems in item 2 of this table.
* * *	*	* * *

* * * * *

■ 27. Table 4 to Subpart UUU of Part 63 is amended by revising the entries for items 9.c and 10.c to read as follows:

* * * * *

TABLE 4 TO SUBPART UUU OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR METAL HAP EMISSIONS FROM CATALYTIC CRACKING UNITS

For each new or existing catalytic cracking unit catalyst regenerator vent . . .	You must . . .	Using . . .	According to these requirements . . .
* * * * * * *			
9. * * *			
	c. Determine the equilibrium catalyst Ni concentration.	XRF procedure in appendix A to this subpart1; or EPA Method 6010B or 6020 or EPA Method 7520 or 7521 in SW–8462; or an alternative to the SW–846 method satisfactory to the Administrator.	You must obtain 1 sample for each of the 3 test runs; determine and record the equilibrium catalyst Ni concentration for each of the 3 samples; and you may adjust the laboratory results to the maximum value using Equation 1 of § 63.1571, if applicable.
* * * * * * *			
10. * * *			
	c. Determine the equilibrium catalyst Ni concentration.	See item 9.c. of this table	You must obtain 1 sample for each of the 3 test runs; determine and record the equilibrium catalyst Ni concentration for each of the 3 samples; and you may adjust the laboratory results to the maximum value using Equation 2 of § 63.1571, if applicable.
* * * * * * *			

* * * * *

■ 28. Table 5 to Subpart UUU is amended by revising the entry for item 3 to read as follows:

* * * * *

TABLE 5 TO SUBPART UUU OF PART 63—INITIAL COMPLIANCE WITH METAL HAP EMISSION LIMITS FOR CATALYTIC CRACKING UNITS

For each new and existing catalytic cracking unit . . .	For the following emission limit . . .	You have demonstrated compliance if . . .
* * * * * * *		
3. Subject to NSPS for PM in 40 CFR 60.102a(b)(1)(ii), electing to meet the PM per coke burn-off limit.	PM emissions must not exceed 0.5 g/kg (0.5 lb PM/1,000 lb) of coke burn-off).	You have already conducted a performance test to demonstrate initial compliance with the NSPS and the measured PM emission rate is less than or equal to 0.5 g/kg (0.5 lb/1,000 lb) of coke burn-off in the catalyst regenerator. As part of the Notification of Compliance Status, you must certify that your vent meets the PM limit. You are not required to do another performance test to demonstrate initial compliance. As part of your Notification of Compliance Status, you certify that your BLD; CO2, O2, or CO monitor; or continuous opacity monitoring system meets the requirements in § 63.1572.
* * * * * * *		

■ 29. Table 6 to Subpart UUU is amended by revising the entries for items 1.a.ii and 7 to read as follows:

* * * * *

TABLE 6 TO SUBPART UUU OF PART 63—CONTINUOUS COMPLIANCE WITH METAL HAP EMISSION LIMITS FOR CATALYTIC CRACKING UNITS

For each new and existing catalytic cracking unit . . .	Subject to this emission limit for your catalyst regenerator vent . . .	You shall demonstrate continuous compliance by . . .
1. * * *	a. * * *	

TABLE 6 TO SUBPART UUU OF PART 63—CONTINUOUS COMPLIANCE WITH METAL HAP EMISSION LIMITS FOR CATALYTIC CRACKING UNITS—Continued

For each new and existing catalytic cracking unit . . .	Subject to this emission limit for your catalyst regenerator vent . . .	You shall demonstrate continuous compliance by . . .
		ii. Conducting a performance test before August 1, 2017 or within 60 days of startup of a new unit and thereafter following the testing frequency in § 63.1571(a)(5) as applicable to your unit.
* *	* *	* * *
7. Option 1b: Elect NSPS subpart Ja requirements for PM per coke burn-off limit, not subject to the NSPS for PM in 40 CFR 60.102 or 60.102a(b)(1).	PM emissions must not exceed 1.0 g/kg (1.0 lb PM/1,000 lb) of coke burn-off.	See item 2 of this table.
* *	* *	* * *

■ 30. Table 10 to Subpart UUU is amended by revising the entry for item 3 to read as follows:

* * * * *

TABLE 10 TO SUBPART UUU OF PART 63—CONTINUOUS MONITORING SYSTEMS FOR ORGANIC HAP EMISSIONS FROM CATALYTIC CRACKING UNITS

For each new or existing catalytic cracking unit . . .	And you use this type of control device for your vent . . .	You shall install, operate, and maintain this type of continuous monitoring system . . .
* *	*	* * * *
3. During periods of startup, shutdown or hot standby electing to comply with the operating limit in § 63.1565(a)(5)(ii).	Any	Continuous parameter monitoring system to measure and record the concentration by volume (wet or dry basis) of oxygen from each catalyst regenerator vent. If measurement is made on a wet basis, you must comply with the limit as measured (no moisture correction).

■ 31. Table 43 to Subpart UUU is amended by revising the entry for item 2 to read as follows:

* * * * *

TABLE 43 TO SUBPART UUU OF PART 63—REQUIREMENTS FOR REPORTS

You must submit . . .	The report must contain . . .	You shall submit the report . . .
* *	* * *	* *
2. Performance test and CEMS performance evaluation data.	On and after February 1, 2016, the information specified in § 63.1575(k)(1).	Semiannually according to the requirements in § 63.1575(b) and (f).

■ 32. Table 44 to Subpart UUU is amended by revising the entries ''63.6(f)(3)'', ''63.67(h)(7)(i)'', ''63.6(h)(8)'', ''63.7(a)(2)'', ''63.7(g)'', ''63.8(e)'', ''63.10(d)(2)'', ''63.10(e)(1)–(2)'', and ''63.10(e)(4)'' to read as follows:

* * * * *

TABLE 44 TO SUBPART UUU OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART UUU

Citation	Subject	Applies to subpart UUU	Explanation
* *	*	* *	* * *
§ 63.6(f)(3)		Yes	Except the cross-references to § 63.6(f)(1) and (e)(1)(i) are changed to § 63.1570(c) and this subpart specifies how and when the performance test results are reported.

TABLE 44 TO SUBPART UUU OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART UUU—Continued

Citation	Subject	Applies to subpart UUU	Explanation
*	* *	*	* * *
§ 63.6(h)(7)(i)	Report COM Monitoring Data from Performance Test.	Yes	Except this subpart specifies how and when the performance test results are reported.
*	* *	*	* * *
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Yes	Except this subpart specifies how and when the performance test results are reported.
*	* *	*	* * *
§ 63.7(a)(2)	Performance Test Dates	Yes	Except this subpart specifies that the results of initial performance tests must be submitted within 150 days after the compliance date.
*	* *	*	* * *
§ 63.7(g)	Data Analysis, Recordkeeping, Reporting.	Yes	Except this subpart specifies how and when the performance test or performance evaluation results are reported and § 63.7(g)(2) is reserved and does not apply.
*	* *	*	* * *
§ 63.8(e)	CMS Performance Evaluation.	Yes	Except this subpart specifies how and when the performance evaluation results are reported.
*	* *	*	* * *
§ 63.10(d)(2)	Performance Test Results	No	This subpart specifies how and when the performance test results are reported.
*	* *	*	* * *
§ 63.10(e)(1)–(2)	Additional CMS Reports	Yes	Except this subpart specifies how and when the performance evaluation results are reported.
*	* *	*	* * *
§ 63.10(e)(4)	COMS Data Reports	Yes	Except this subpart specifies how and when the performance test results are reported.
*	* *	*	* * *

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