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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Parts 625 and 636

#### Commodity Credit Corporation

#### 7 CFR Parts 1415, 1465, 1466, 1468, and 1470

RIN 0578-AA64

#### Conservation Program Recipient Reporting

**AGENCY:** Commodity Credit Corporation (CCC) and Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Final rule.

**SUMMARY:** The Office of Management and Budget (OMB) issued regulatory guidance to agencies to establish requirements for Federal financial assistance applicants, recipients, and subrecipients that are necessary for the implementation of the Federal Funding Accountability and Transparency Act of 2006 (the Transparency Act). Since FY 2011, NRCS included the requirements identified in each of the NRCS conservation program regulations that involve an award of Federal financial assistance. Section 766 of the Consolidated Appropriations Act of 2018 amended the Food Security Act of 1985 to exempt producers and landowners participating in NRCS conservation programs from the Transparency Act regulations. Therefore, NRCS is removing specific reference to the Transparency Act regulations in its conservation program regulations where such requirements affect its conservation program agreements with producers and landowners.

**DATES:** Effective May 18, 2018.

**FOR FURTHER INFORMATION CONTACT:** For specific questions about this notice, please contact Martha Joseph, Special

Assistant to the Deputy Chief for Programs, (814) 203-5562 or [Martha.joseph@wdc.usda.gov](mailto:Martha.joseph@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The Office of Management and Budget (OMB) published two regulations in October 2010, 2 CFR part 25 and 2 CFR part 170, to assist agencies and recipients of Federal financial assistance comply with the Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109-282, as amended). Both regulations had implementation requirements beginning October 1, 2010.

The regulations at 2 CFR part 25 require, with some exceptions, recipients of Federal financial assistance to apply for and receive a Dun and Bradstreet Universal Numbering Systems (DUNS) number and register in the System for Award Management (SAM). The regulations at 2 CFR part 170 establish requirements for Federal financial assistance applicants, recipients, and subrecipients. The regulation provides standard wording that each agency must include in its awarding of financial assistance that requires recipients to report information about first-tier subawards and executive compensation under those awards.

During the regulatory clearance process, NRCS cross-referenced the requirements of 2 CFR part 25 and 2 CFR part 170 in all conservation program regulations, policies, and program agreements developed subsequent to October 2010. These requirements in particular have been cross-referenced in the following NRCS conservation program regulations: The Watershed Operations and Flood Prevention Program (7 CFR 622.30(d)), the Emergency Watershed Protection Program (7 CFR 624.6(a)(2)(iv)), the Healthy Forests Reserve Program (7 CFR 625.4(b)(3)), the Wildlife Habitat Incentive Program (7 CFR 636.4(a)(12)), the Grassland Reserve Program (7 CFR 1415.6(e)), the Voluntary Public Access-Habitat Incentives Program (7 CFR 1455.30(c)), the Agricultural Management Assistance Program (7 CFR 1465.5(c)(12)), the Environmental Quality Incentives Program (7 CFR part 1466.6(b)(7)), the Agricultural Conservation Easement Program (7 CFR 1468.20(b)(2)(ii), 1468.23(d), and 1468.30(c)(3)), the Conservation

Stewardship Program (7 CFR 1470.6(a)(6)), and the Farm and Ranch Lands Protection Program (7 CFR part 1491.20(d)).

Section 766 of the Consolidated Appropriations Act of 2018 added a new subsection to section 1244 of the Food Security Act of 1985 to exempt producers and landowners participating in NRCS conservation programs from the Transparency Act regulations. Therefore, the purpose of this final rule is to remove from NRCS regulations the requirement that producers and landowners obtain a DUNS number and maintain an active registration in SAM for NRCS conservation program participation. Additionally, in accordance with this statutory exemption, NRCS has removed from its policies and program documents the requirement for DUNS/SAM compliance that affect producers and landowners directly. NRCS will continue to make available to the public program payment information as authorized by Section 1619 of the Food, Conservation, and Energy Act of 2008 in accordance with the transparency principles of the Transparency Act. NRCS will continue to meet its financial control responsibilities, without its conservation program participants having a DUNS number or active SAM registration, through utilization of USDA's business tools that facilitate NRCS's ability to ensure that program payment eligibility and limitations are met.

Thus, this final rule removes the NRCS regulatory provisions that cross-reference compliance with 2 CFR parts 25 and 170 with respect to conservation program agreements between NRCS and producers or landowners. Because the Consolidated Appropriations Act of 2018 did not exempt other entities from 2 CFR parts 25 and 170, NRCS retains its current regulatory requirements for grants and cooperative agreements, such as those under the watershed programs or the Voluntary Public Access Habitat Incentives Program. Therefore, no changes are made to 7 CFR parts 622, 624, 1455, and 1491. Additionally, no changes are made to 7 CFR part 1468 with respect to Agricultural Land Easement agreements under the Agricultural Conservation Easement Program (ACEP), though the regulatory cross-reference to the requirements of 2 CFR parts 25 and 170 are removed with



respect to Wetland Reserve Easement agreements under ACEP.

The changes are non-discretionary, and thus no public comments are being solicited.

#### Executive Order 12866

This document does not meet the criteria for a significant regulatory action as specified in Executive Order 12866.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because neither the CCC nor Natural Resources NRCS is required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Environmental Analysis

NRCS has determined that changes made by this rule fall within a category of actions that are excluded from the requirement to prepare either an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Administrative changes made in this rule fall within a categorical exclusion for policy development relating to routine activities and similar administrative functions (7 CFR 1b.3(a)(1)), and NRCS has identified no extraordinary circumstances that would otherwise require preparation of an EA or EIS.

#### Paperwork Reduction Act

Section 1244(m) of the Food Security Act of 1985, as amended by Section 766 of the Consolidated Appropriations Act of 2018, exempts producers and landowners participating in NRCS conservation programs from the Transparency Act regulations at 2 CFR parts 25 and 170. Therefore, there is no burden associated with the removal of the reference to the Transparency Act regulations from NRCS conservation program regulations that must be reported pursuant to the Paperwork Reduction Act.

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

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and

Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In late 2010 and early 2011, USDA engaged in a series of informational sessions to obtain input by Tribal officials or their designees concerning the impact of the original imposition of Transparency Act requirements on the Tribe or Indian Tribal governments, or whether such imposition may preempt Tribal law. USDA will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal officials or their designees concerning ways to improve this rule in Indian Country. We are unaware of any current Tribal laws that could be in conflict with this final rule. If a Tribe requests consultation, the Natural Resources Conservation Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in NRCS conservation program implementation are not expressly mandated by Congress.

#### Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, NRCS assessed the effects of this rulemaking action on State, local, and tribal governments, and the public. This action does not compel the expenditure of \$100 million or more by any State, local or tribal governments, or anyone in the private sector, and therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

#### List of Subjects

##### 7 CFR Part 625

Administrative practice and procedure, Agriculture, Forests and forest products, Soil conservation.

##### 7 CFR Part 636

Administrative practice and procedure, Endangered and threatened species, Government contracts, Wildlife.

##### 7 CFR Part 1415

Administrative practice and procedure, Agriculture, Grazing lands, Soil conservation.

##### 7 CFR Parts 1465 and 1466

Administrative practice and procedure, Government contracts, Natural resources, Soil conservation, Water resources.

##### 7 CFR Part 1468

Agriculture, Flood plains, Grazing lands, Natural resources, Soil conservation, Wildlife.

##### 7 CFR Part 1470

Agriculture, Forests and forest products, Natural resources, Soil conservation, Water resources, Wildlife.

Accordingly, 7 CFR parts 625, 636, 1415, 1465, 1466, 1468, and 1470 are amended as follows:

#### PART 625—HEALTHY FORESTS RESERVE PROGRAM

- 1. The authority citation for part 625 continues to read as follows:

**Authority:** 16 U.S.C. 6571–6578.

- 2. Section 625.4 is amended by revising paragraphs (b)(1) and (2) and removing paragraph (b)(3).

The revisions read as follows:

##### § 625.4 Program requirements.

\* \* \* \* \*

(b) \* \* \*

- (1) Be the landowner of eligible land for which enrollment is sought; and
- (2) Agree to provide such information to NRCS, as the agency deems necessary or desirable, to assist in its determination of eligibility for program benefits and for other program implementation purposes.

\* \* \* \* \*

#### PART 636—WILDLIFE HABITAT INCENTIVE PROGRAM

- 3. The authority citation for part 636 continues to read as follows:

**Authority:** 16 U.S.C. 3839bb–1.

- 4. Section 636.4 is amended by revising paragraphs (a)(10) and (11) and removing paragraph (a)(12).

The revisions read as follows:

##### § 636.4 Program requirements.

(a) \* \* \*

- (10) Supply information, as required by NRCS, to determine eligibility for the program including, but not limited to, information to verify the applicant's status as a limited resource farmer or rancher or beginning farmer or rancher and payment eligibility as established by 7 CFR part 1400, Adjusted Gross Income (AGI); and

(11) With regard to any participant that utilizes a unique identification number as an alternative to a tax identification number, the participant will utilize only that identifier for any and all other WHIP cost-share agreements to which the participant is a party. Violators will be considered to

have provided fraudulent representation and are subject to § 636.13.

**PART 1415—GRASSLANDS RESERVE PROGRAM**

■ 5. The authority citation for part 1415 continues to read as follows:

**Authority:** 16 U.S.C. 3838n–3838q.

■ 6. Section 1415.6 is amended by revising paragraphs (c) and (d) and removing paragraph (e).

The revisions read as follows:

**§ 1415.6 Participant eligibility.**

(c) Meet the Adjusted Gross Income requirements in part 1400 of this chapter, unless exempted under part 1400 of this chapter; and

(d) Meet the conservation compliance requirements found in part 12 of this title.

**PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE**

■ 7. The authority citation for part 1465 continues to read as follows:

**Authority:** 7 U.S.C. 1524(b).

■ 8. Section 1465.5 is amended by revising paragraphs (c)(10) and (11) and removing paragraph (c)(12).

The revisions read as follows:

**§ 1465.5 Program requirements.**

(10) Be in compliance with the terms of all other USDA-administered conservation program agreements to which the participant is a party; and

(11) Develop and agree to comply with an APO and O&M agreement, as described in § 1465.3.

**PART 1466—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM**

■ 9. The authority citation for part 1466 continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; 16 U.S.C. 3839aa–3839–8.

■ 10. Section 1466.6 is amended by:  
 ■ a. Revising paragraph (b)(6);  
 ■ b. Removing paragraph (b)(7); and  
 ■ c. Redesignating paragraph (b)(8) as paragraph (b)(7) and revising it.

The revisions read as follows:

**§ 1466.6 Program requirements.**

(6) Supply information, as required by NRCS, to determine eligibility for the

program, including but not limited to, information to verify the applicant’s status as a limited resource, beginning farmer or rancher, and payment eligibility as established by 7 CFR part 1400; and

(7) Provide a list of all members of the legal entity and embedded entities along with members’ tax identification numbers and percentage interest in the entity.

**PART 1468—AGRICULTURAL CONSERVATION EASEMENT PROGRAM**

■ 11. The authority citation for part 1468 continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; 16 U.S.C. 3865–3865d.

**§ 1468.30 [Amended]**

■ 12. Section 1468.30 is amended by:  
 ■ a. Removing paragraph (c)(3);  
 ■ b. Redesignating the second paragraph (c)(4) as paragraph (c)(5); and  
 ■ c. Redesignating paragraphs (c)(4) and newly redesignated (c)(5) as paragraphs (c)(3) and (4), respectively.

**PART 1470—CONSERVATION STEWARDSHIP PROGRAM**

■ 13. The authority citation for part 1470 continues to read as follows:

**Authority:** 16 U.S.C. 3838d–3838g.

■ 14. Section 1470.6 is amended by:  
 ■ a. Revising paragraph (a)(5);  
 ■ b. Removing paragraph (a)(6);  
 ■ c. Redesignating paragraph (a)(7) as paragraph (a)(6) and revising it.

The revisions read as follows:

**§ 1470.6 Eligibility requirements.**

(5) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information related to eligibility requirements and ranking factors; conservation activity and production system records; information to verify the applicant’s status as an historically underserved producer or a veteran farmer or rancher, if applicable; and payment eligibility as established by 7 CFR part 1400; and

(6) Provide a list of all members of the legal entity or joint operation, as applicable, and embedded entities along with members’ tax identification numbers and percentage interest in the legal entity or joint operation. Where applicable; American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number

for each individual eligible for payments.

Signed in Washington, DC, on May 14, 2018.

**Leonard Jordan,**  
*Vice President, Commodity Credit Corporation, Acting Chief, Natural Resources Conservation Service.*

[FR Doc. 2018–10641 Filed 5–17–18; 8:45 am]

**BILLING CODE 3410–16–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

[Docket No. FAA–2017–0636; Special Conditions No. 25–726–SC]

**Special Conditions: The Boeing Company Model 777–8 and 777–9 Airplanes; Folding Wingtips**

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

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for The Boeing Company (Boeing) Model 777–8 and 777–9 airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is folding wingtips. 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:** Effective June 18, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ian Won, FAA, Airframe and Cabin Safety Section, AIR–675, Policy and Innovation Division, Transport Standards Branch, Aircraft Certification Service, 2200 South 216th St., Des Moines, Washington, 98198–6547; telephone 206–231–3217.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 19, 2017 (for the Model 777–8 airplane), and May 12, 2015 (for the 777–9 airplane), Boeing applied for an amendment to Type Certificate (TC) No. T00001SE to include the new Model 777–8 and 777–9 airplanes. These airplanes are constructed with new carbon-fiber-reinforced plastic (CFRP) wings with folding wingtips.

The Model 777-9 airplane, a derivative of the Model 777-300ER airplane currently approved under TC No. T00001SE, is a stretched-fuselage, large, twin-engine airplane with seating for 408 passengers and a maximum takeoff weight of 775,000 pounds.

The Model 777-8 airplane, a shortened-body derivative of the Model 777-9 airplane, is a large, twin-engine airplane with seating for 359 passengers and a maximum takeoff weight of 775,000 pounds.

#### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Boeing must show that the Model 777-8 and 777-9 airplanes meet the applicable provisions of the regulations listed in TC No. T00001SE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

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 Model 777-8 and 777-9 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, or should any other model already included on the same type certificate be modified to incorporate 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 Model 777-8 and 777-9 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 § 21.101.

#### Novel or Unusual Design Features

The Boeing Model 777-8 and 777-9 airplanes will incorporate the following novel or unusual design features: CFRP wings with folding wingtips.

Boeing will incorporate this on-ground wingtip-fold capability to reduce the wingspan from 235 to 212 feet when

folded. These folding wingtips comply with Code E gate<sup>1</sup> compatibility when folded during ground operations.

#### Discussion

Boeing will add folding wingtips to their Model 777-8 and 777-9 airplane wings to maintain Code E gate compatibility when folded during ground operations. This wing-folding feature will be operable on the ground only. Boeing has no plan to carry fuel in the folding sections of the wings.

Boeing has determined that a catastrophic event could occur if the Model 777-8 and 777-9 airplane wingtips are not properly positioned and secured for takeoff and during flight. In service, numerous takeoff operations with improper airplane configurations have occurred due to failures of the takeoff warning systems, or inadvertent crew actions. For these special conditions, a parallel is drawn between taking off with gust locks engaged and taking off with the wingtips folded, as either condition could result in a catastrophic event. Consequently, the FAA has determined that the level of safety in protecting a misconfigured airplane from takeoff with wingtips folded should be the same as taking off with the gust locks engaged. Therefore, condition 2 of these special conditions has the same intent as § 25.679(a)(2). Per § 25.1309, the applicant must show that such an event is extremely improbable, must not result from a single failure, and that appropriate alerting must be provided for the crew to manage unsafe system-operating conditions. In addition, the applicant must ensure that the wingtips are properly secured during ground operations to protect ground personnel against bodily injury.

Factors to be considered when showing compliance to these special conditions include, but are not limited to:

- With wingtips in the folded position, the conventional airplane-wingtip-position lights may have reduced visibility due to the upward position of the wingtips, possibly impacting ground-operation safety. Light placement may require special consideration to retain the current ground-operation safety, and mitigate any adverse impact this light position may have on pilot visibility during night-lighting conditions.

- Due to upward wingtip positioning on the ground, significant loads may be

<sup>1</sup> A Code E gate is designed to accommodate aircraft wingspans between 170.6 ft. (52m) and 213.3 ft. (65m), and outer main-gear wheel spans between 29.5 ft. (9m) and 45.9 ft. (14m). Boeing 777 airplanes are in this gate-code category.

imposed by wind gusts combined with taxi speed during the transition from the unfolded to the folded position.

- The FAA issued Policy Statement No. PS-ANM-25-12, "Certification of Structural Elements in Flight Control Systems," to address structural elements in systems that act as both structure and as part of a system. This policy provides additional guidance on the appropriate application of the fatigue and damage-tolerance requirements of § 25.571, and the system-safety requirements of §§ 25.671 and 25.1309.

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.

#### Discussion of Comments

Notice of Proposed Special Conditions No. 25-17-02-SC for the Boeing Model 777-8 and 777-9 airplanes was published in the **Federal Register** on November 1, 2017 (82 FR 50581). The FAA received responses from four commenters.

##### *Commenter 1: Air Line Pilots Association (ALPA)*

ALPA stated that the special conditions should require demonstration of ground-handling effects due to the folding wingtips, and implementing a robust flight-test procedure to evaluate the effects of the folding wingtips during landing rollout and taxi under high crosswind and gust conditions, to ensure no exceptional piloting skill is required during these operations. ALPA also suggests including, within the Boeing Model 777 series airplane flight manual, the crosswind conditions under which the folding wingtips were studied.

The FAA notes that demonstration of acceptable handling qualities is required by special condition 5 as written. The method of compliance demonstration, and associated documentation, is outside the scope of these special conditions, and the special conditions remain adopted as proposed.

##### *Commenter 2*

One commenter suggested various means for the applicant to address the special conditions, for example, the need for additional power cut outs that are separate circuits. The FAA partially agrees with the commenter, noting that special conditions are performance standards that may be satisfied by various means, including those the commenter proposed. However, the method of compliance demonstration is outside the scope of these special

conditions. Therefore, the special conditions remain adopted as proposed.

#### *Commenter 3*

One commenter expressed concern that the special conditions may be confusing to the United States Congress. The FAA responds that special conditions are part of the Executive Branch rulemaking process, which is independent of the United States Congress lawmaking process. Special conditions are unique to aircraft certification and, therefore, are written with the aerospace-industry audience in mind. The special conditions remain adopted as proposed.

#### *Commenter 4*

One commenter stated concern over the applicability of these special conditions to future models on the Boeing Model 777 airplane type certificate. Should Boeing 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. The FAA responds that these special conditions provide requirements for a safe design for folding wingtips on future Model 777 airplane derivatives, as well as on the current Model 777 airplanes. These special conditions will ensure that future models incorporating the same novel or unusual design feature meet the level of safety equivalent to that established in the regulations.

The commenter suggested that the 1.25 factor specified in § 25.415(d) be applied to the portion of the system that is isolated in-flight, and is not critical for safe flight and landing. The FAA disagrees with the comment. The structure the commenter addressed has no impact on safety of flight. Additionally, the special conditions require that the wingtips must have a means by which to safeguard against unlocking from the extended, flight-deployed position in-flight because of failures, including the failure of any single structural element. The special conditions remain adopted as proposed.

The commenter suggested that the airplane must demonstrate acceptable handling qualities during rollout in a crosswind environment, as the wingtips transition from the flight-deployed to folded position, and transitioning from the folded to the flight-deployed position, as well as during the unlikely event of asymmetric wingtip folding. The FAA agrees with the comment, but it is the FAA's position that the special conditions, as proposed, indicate that the airplane must exhibit acceptable

handling qualities under normal and asymmetric operation. The special conditions remain adopted as proposed.

The commenter suggested that the FAA repeat the § 25.675 text in special condition 6, in lieu of only referencing § 25.675 in the special condition. The FAA finds that the special condition has the same legal effect either way, and finds no advantage to repeating the text of § 25.675 in special condition 6.

#### **Applicability**

As discussed above, these special conditions are applicable to Boeing Model 777-8 and 777-9 airplanes. Should Boeing 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 a certain novel or unusual design feature 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.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 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 Boeing Model 777-8 and 777-9 airplanes.

**Note:** The term "latch" refers to the mechanism that allows the wingtip to carry flight loads in the down (flight-deployed) position. The term "lock" refers to the mechanism that prevents disconnection of the latch when the wing tip is down.

1. More than one means must be available to alert the flightcrew that the wingtips are not properly positioned and secured prior to takeoff. Each of these means must be unique in their wingtip-monitoring function. When meeting this condition, the applicant must add a function to the takeoff warning system, as required by § 25.703(a)(1) and (2), to warn of an unlocked or improperly positioned wingtip, including indication to the flightcrew when a wingtip is in the folded position during taxi.

2. In addition to a takeoff warning in accordance with § 25.703, a means must be provided to prevent airplane takeoff if a wingtip is not properly positioned and secured for flight.

3. The applicant must consider the effects of folding-wingtip freeplay when evaluating compliance to the design load requirements of 14 CFR part 25, subpart C, and the aeroelastic stability (including flutter, divergence, control reversal, and any undue loss of stability and control as a result of structural deformation) requirements of § 25.629. Thus, the effects of normal wear, and other long-term durability conditions (such as corrosion) of the folding-wingtip operating mechanism on freeplay, and its impact on loads and aeroelastic stability, must be considered. Where freeplay limitations are required to ensure aeroelastic stability, acceptable freeplay limits and freeplay check procedures must be established. If lubrication is required to control excessive wear, lubrication intervals must be established. These procedures and limitations must be documented in accordance with § 25.1529. The freeplay-check and mechanism-lubrication intervals, if required, must be documented as a certification maintenance requirement (CMR). Guidance for CMRs can be found in Advisory Circular 25-19A, "Certification Maintenance Requirements." The effects of freeplay on wing-joint torsional and bending stiffness, as well as wing frequencies, must be evaluated when showing compliance to loads and aeroelastic stability requirements. Also, the effects of freeplay on fatigue and damage tolerance must be considered when showing compliance with § 25.571.

4. The folding wingtips and their operating mechanism must be designed for 65 knot, horizontal, ground-gust conditions in any direction as specified in § 25.415(a). Relevant design conditions must be defined using combinations of steady wind and taxi speeds determined by rational analysis utilizing airport wind data. The folding wingtip is not a control surface as specified in § 25.415(b). Therefore, in lieu of the equation provided in § 25.415(b), the hinge moment may be calculated from rational wind-tunnel data. The 1.25 factor specified in § 25.415(d) need not be applied to the portion of the system that is isolated in flight and is not critical for safe flight and landing. The folding-wingtip system must be designed for the conditions specified in § 25.415(e), (f), and (g). Runway roughness, as specified in § 25.491, must be evaluated separately up to the maximum relevant airplane ground speeds. All of the above conditions must be applied to the folding wingtips in the extended (flight-

deployed), folded, and transient positions.

5. The airplane must demonstrate acceptable handling qualities during rollout in a crosswind environment, as wingtips transition from the flight-deployed to folded position, as well as during the unlikely event of asymmetric wingtip folding.

6. The wingtip-fold operating mechanism must have stops that positively limit the range of motion of the wingtips. Each stop must be designed to the requirements of § 25.675.

7. The wingtip hinge structure must be designed for inertia loads acting parallel to the hinge line. In the absence of more rational data, the inertia loads may be assumed to be equal to KW as referenced in § 25.393. Hinge design must meet the requirements of § 25.657.

8. In lieu of § 25.1385(b): The forward position lights must be installed such that they consist of a red and a green light spaced laterally as far apart as practicable, and installed forward on the airplane, so that, with the airplane in the normal flying position and with the wingtips in the folded position for ground operations, the red light is on the left side and the green light is on the right side at approximately the level of the wingtips in the takeoff configuration. Each light must be approved and must meet the requirements of § 25.1385(a) and (d). The lights must not impair the vision of the flightcrew when the wingtips are in the folded and transient positions.

9. The applicant must include design features that ensure the wingtips are properly secured during ground operations, to protect ground personnel from bodily injury as well as to prevent damage to the airframe, ground structure, and ground support equipment.

10. The wingtips must have means to safeguard against unlocking from the extended, flight-deployed position in flight, as a result of failures, including the failure of any single structural element. All sources of airplane power that could initiate unlocking of the wingtips must be automatically isolated from the wingtip-fold operating system (including the latching and locking system) prior to flight, and it must not be possible to restore power to the system during flight. The wingtip latching and locking mechanisms must be designed so that, under all airplane flight-load conditions, no force or torque can unlatch or unlock the mechanisms. The latching system must include a means to secure the latches in the latched position, independent of the locking system. It must not be possible

to position the lock in the locked position if the latches and the latching mechanisms are not in the latched position, and it must not be possible to unlatch the latches with the locks in the locked position.

Issued in Des Moines, Washington, on May 11, 2018.

**Victor Wicklund,**

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

[FR Doc. 2018–10576 Filed 5–17–18; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 864

[Docket No. FDA–2016–N–0406]

#### Medical Devices; Hematology and Pathology Devices; Classification of Blood Establishment Computer Software and Accessories

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is issuing a final rule to classify blood establishment computer software (BECS) and BECS accessories (regulated under product code MMH) into class II (special controls). FDA has identified special controls for BECS and BECS accessories that are necessary to provide a reasonable assurance of safety and effectiveness. FDA is also giving notice that the Agency does not intend to exempt BECS and BECS accessories from premarket notification requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

**DATES:** This rule is effective June 18, 2018.

**ADDRESSES:** For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and insert the docket number found in brackets in the heading of this final rule into the “Search” box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Jessica Walker Udechukwu, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

## SUPPLEMENTARY INFORMATION:

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### I. Executive Summary

#### A. Purpose of the Final Rule

FDA is classifying BECS and BECS accessories into class II (special controls). The Agency believes that the special controls established and imposed by this final rule, together with the general controls, will provide reasonable assurance of the safety and effectiveness of these devices. In this final rule, FDA is also revising the definition of BECS accessories from the definition in the proposed rule and responding to comments received on the proposed rule. Lastly, FDA is giving notice that the Agency does not intend to exempt BECS and BECS accessories from the premarket notification requirements of the FD&C Act.

#### B. Summary of the Major Provisions of the Final Rule

In this final rule, FDA is classifying BECS and BECS accessories into class II (special controls). This rule creates § 864.9165 in 21 CFR part 864, subpart J, to include the identification and classification of BECS and BECS accessories. The classification of BECS and BECS accessories is consistent with the FDA Blood Product Advisory Committee (BPAC) recommendation that the devices be classified as class II (special controls) devices with premarket review.

#### C. Legal Authority

We are issuing this final rule under section 513(a)(1)(B) of the FD&C Act (21 U.S.C. 360c(a)(1)(B)). FDA has the authority under this provision of the FD&C Act to issue a regulation to establish special controls for class II

devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness of the device, and for which there is sufficient information to establish special controls to provide such assurance. Under this authority, FDA is establishing special controls for BECS and BECS accessories.

#### *D. Costs and Benefits*

FDA is finalizing this regulation to classify BECS and BES accessories into class II (special controls). Because this final rule would not impose significant new obligations on manufacturers, this regulation is not anticipated to result in any significant new compliance costs and the economic impact is expected to be minimal.

## **II. Background**

The FD&C Act (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (1976 Amendments), establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act establishes three categories (classes) of devices depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 or any combination of such sections) are sufficient to provide reasonable assurance of safety and effectiveness of the device. Class I also includes those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act). Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance, including the promulgation of performance standards,

postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions the Agency deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act). Class III devices are those devices for which insufficient information exists to determine that general controls and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

Under section 513(d)(1) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as “preamendments devices”), are classified after FDA: (1) Receives a recommendation from a device classification panel (an FDA advisory committee); (2) publishes the panel’s recommendation, along with a proposed regulation classifying the device, and provides an opportunity for interested persons to submit comments; and (3) publishes a final regulation classifying the device.

FDA has classified most preamendments devices under these procedures, relying upon valid scientific evidence as described in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c), to determine that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use.

Devices that were not in commercial distribution before May 28, 1976 (generally referred to as “postamendments devices”), are classified automatically by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) FDA classifies or reclassifies the device into class I or II or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval.

The Agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A person may market a preamendments device that has been classified into class III through premarket notification procedures without submission of a premarket approval application (PMA) until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

#### *A. Need for the Regulation/History of This Rulemaking*

After the enactment of the 1976 amendments, FDA began to identify and classify all preamendments devices in accordance with section 513(b) of the FD&C Act. BECS and BECS accessories are preamendments devices. The first BECS 510(k) premarket notification was cleared by FDA on August 26, 1996. Information Data Management, Inc., submitted premarket notifications for their Components & Distribution Information System and Donor Management Information System. These devices were compared to systems marketed prior to the 1976 amendments, including the Blood Inventory Management System by Computer Sciences Corp. and the Donor Deferral Registry developed by the American National Red Cross. Between 1996 and the time FDA drafted the proposed rule in December 2015, FDA had cleared 220 BECS and BECS accessories under the 510(k) program. BECS and BECS accessories are regulated under product code MMH.

In 1998, FDA sought recommendations from the BPAC, serving as a Device Classification Panel, on the classification of BECS. The Device Classification Panel recommended regulating BECS as a class II device with premarket review (Ref. 1). The classification of BECS was not finalized following the Device Classification Panel’s recommendation in 1998 because of competing priorities.

On December 3, 2014, the BPAC, serving as a Device Classification Panel (the Panel), again convened to discuss the classification of BECS and BECS accessories (Ref. 2). The Panel discussed the risks to health associated with BECS and BECS accessories, the classification of BECS and BECS accessories, and, if classified as class II devices, the special controls that would be required for these devices. The Panel agreed that general controls were not sufficient to provide a reasonable assurance of safety and effectiveness of BECS and BECS accessories. The Panel believed that BECS and BECS accessories presented a potential unreasonable risk of illness, injury, or death, and that sufficient information exists to establish special controls for these devices.

Consequently, the Panel recommended that these devices be classified into class II (special controls) with premarket review.

After considering the recommendations of the Panel and the valid scientific evidence, including the published literature, medical device reports, recall information, and FDA’s extensive inspection and regulatory experiences with these device types (Ref. 3), FDA published a proposed rule in the **Federal Register** of March 1, 2016 (81 FR 10553), to classify BECS and

BECS accessories into class II (special controls) with premarket review. In the proposed rule, FDA identified the risks to health and the mitigation measures for BECS and BECS accessories. FDA assessed the risks to health for BECS accessories and found these risks to be the same as BECS and, therefore, proposed to classify the BECS as the parent device and BECS accessories together. FDA is not aware of any new information that has arisen since this Panel meeting and the publication of the proposed rule that would provide a

basis for different recommendations or findings. FDA believes general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness for these devices and that there is sufficient information to establish special controls to provide such assurance. FDA believes that special controls, in addition to general controls, would provide a reasonable assurance of the safety and effectiveness of BECS and BECS accessories and would, therefore, mitigate risks as summarized in table 1.

TABLE 1—HEALTH RISKS AND MITIGATION MEASURES FOR BECS AND BECS ACCESSORIES

Identified risks to health	Mitigation measures
Transfusion reaction or death .....	Performance and functional requirements.
Transmission of infectious disease .....	Performance and testing.
Donor health risk from too frequent or inappropriate donation .....	Labeling.

The special controls that were proposed for BECS and BECS accessories—specifically performance and functional requirements, device verification and validation, hazard analysis, traceability matrix, performance testing, and labeling—collectively ensure that the manufacturer performs and documents the activities necessary to decrease the risk of malfunction that could result in adverse events. Further, appropriate labeling ensures that the user of the device is provided clear instructions for use, including the limitations of the device, to reduce the risk of user error that could result in the risks to health associated with these devices.

Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act, if the Agency determines that premarket notification is not necessary to assure the safety and effectiveness of the device. The Agency does not intend to exempt BECS and BECS accessories from 510(k) premarket notification as allowed under section 510(m) of the FD&C Act. FDA believes premarket notification is necessary for these devices to assure their safety and effectiveness.

*B. Summary of Comments to the Proposed Rule*

Most of the comments expressed support for the proposed rule and agreed with the proposed classification of BECS and BECS accessories as class II devices and the proposed special controls. Two commenters disagreed with the proposed classification of BECS and BECS accessories into class II. Several comments requested

clarification of the definition of BECS accessory. Several commenters requested clarification on the proposed special controls.

**III. Legal Authority**

We are issuing this final rule under section 513(a)(1)(B) of the FD&C Act. FDA has the authority under this provision of the FD&C Act to issue a regulation to establish special controls for class II devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance. Under this authority, FDA is establishing special controls for the class II devices for BECS and BECS accessories.

**IV. Comments on the Proposed Rule and FDA Response**

*A. Introduction*

In response to the proposed rule (81 FR 10553) to classify BECS and BECS accessories into class II, we received seven comment letters by the close of the comment period, each containing one or more comments on one or more issues. We received comments from a blood establishment, two trade organizations representing the blood and plasma industries, one device manufacturer, one anonymous response, one private citizen, and one public health research organization.

We describe and respond to the comments in section IV.B. We have numbered each comment to help distinguish between different comments. We have grouped similar comments together under the same number, and, in some cases, we have

separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment’s value or importance or the order in which comments were received.

*B. Specific Comments and FDA Response*

(Comment 1) One comment suggested that FDA has failed to establish that BECS and BECS accessories present an “unreasonable” risk of illness or injury.

(Response 1) We disagree. As presented to the Panel on December 3, 2014, in the 1990s during establishment inspection observations, it was revealed that unsuitable blood and blood components had been released and distributed as a result of improperly designed software. This posed potential unreasonable risks to health such as transfusion reaction, injury or death, and transmission of infectious disease. These observations resulted in warning letters and recalls of the unsuitable blood and blood components, as well as warning letters and recalls of the defective software. Furthermore, as BECS programs became increasingly complex, FDA investigators found that validation solely by the end user of the device was proving impractical, and was insufficient to assure software performance. Therefore, FDA determined that there were potential unreasonable risks to health associated with BECS and convened the Panel in December 2014. The Panel considered the scientific evidence presented at the meeting and recommended that BECS and BECS accessories be classified into



class II (special controls) with premarket review. After considering the recommendations of the Panel and the valid scientific evidence, including the published literature, medical device reports, recall information, and FDA's extensive inspection and regulatory experiences with these device types (Ref. 3), FDA proposed that BECS and BECS accessories be classified into class II (special controls) with premarket review. In the proposed rule, FDA proposed that special controls, in addition to general controls, would provide a reasonable assurance of the safety and effectiveness of BECS and BECS accessories and would, therefore, mitigate the risks to patients of transfusion reaction or death and transmission of infectious disease and risks to donors because of inappropriate donations. FDA is not aware of any new information that has arisen since this Panel meeting and the publication of the proposed rule that would provide a basis for different recommendations or findings. Accordingly, this final rule classifies BECS and BECS accessories into class II (special controls) with premarket review.

(Comment 2) One comment recommended that the rule should detail the requirements for verification and validation.

(Response 2) The final rule includes verification and validation testing as a special control. FDA issued the guidance entitled "General Principles of Software Validation; Final Guidance for Industry and FDA Staff" on January 11, 2002, which outlines general validation principles and recommendations that are considered applicable to the validation of medical device software, or the validation of software used to design, develop, or manufacture medical devices (Ref. 4). BECS manufacturers can follow the recommendations in this guidance to help ensure appropriate validation testing of their device. FDA believes that the recommendations in this guidance support the requirements in the Quality System Regulation (21 CFR part 820), and can assist manufacturers in meeting the requirements for verification and validation testing as a special control.

(Comment 3) Multiple comments requested clarification of the definition of BECS accessories.

(Response 3) FDA agrees that clarification of BECS accessories is needed. To provide greater clarity we have revised the identification language in the classification regulation. Under the final rule, a BECS accessory is defined as a device intended for use with BECS to augment its performance or to expand or modify its indications

for use. In response to comments, we are providing examples of BECS accessories.

The following examples are BECS accessories:

- A software device that queries a BECS to find blood components and donors that meet specific requirements, *e.g.*, Human Leukocyte Antigen and Cytomegalovirus status and allows the selections of the most suitable blood component for the recipient and, in doing so, expands the indications for use of the BECS.

- A software device that augments the performance and expands the indications for use of the BECS by providing biometric technology to identify a blood donor.

- A software device that augments the performance of the BECS by providing algorithms for donor or transfusion management.

The following examples are not BECS accessories:

- An interface that merely transmits data from an external device to the BECS such as billing information or inventory information to stock units in the blood bank is not a BECS accessory. These functionalities are not related to the indications for use of a BECS and do not alter the data of the BECS; thus, such an interface would not meet the definition of a BECS accessory.

- An interface from a blood pressure device to the BECS that performs a straight transfer of blood pressure information but does not modify the medical data before or during the transfer is not a BECS accessory. The data transfer itself does not expand the indications for use of the BECS; it merely transfers data without manipulation of the data or addition of logic function. Thus, it would not meet the definition of a BECS accessory.

- An interface between two BECS systems that is a straight transfer of information and where the interface software does not modify the medical data before or during the transfer does not meet the definition of a BECS accessory because it is not used to augment the performance of the BECS or to expand or modify its indications for use.

- An interface that merely transfers data from the BECS to another device simply for donor appointments is not a BECS accessory. It does not meet the definition of a BECS accessory because it is not used to augment the performance of the BECS or to expand or modify its indications for use (it is simply transferring data from the BECS).

(Comment 4) One comment recommended that we distinguish a

BECS accessory from Medical Device Data Systems (MDDS).

(Response 4) A BECS accessory is a device used with BECS to augment the performance or expand or modify the indications for use of the BECS. Like BECS, BECS accessories are not MDDS because they are intended to do more than simply transfer, store, or display medical device data or convert medical device data from one format to another format in accordance with a preset specification.

Section 3060 of the 21st Century Cures Act (Cures Act), Pub. L. 114–255 (2016), amended the FD&C Act to add section 520(o) (21 U.S.C. 360j(o)), which describes certain software functions, including functions performed by MDDS, that are excluded from the definition of device in section 201(h) of the FD&C Act (21 U.S.C. 321(h)). Section 3060 of the Cures Act further states that section 520(o) of the FD&C Act shall not be construed to limit FDA's authority to regulate software used in the manufacture and transfusion of blood and blood components to assist in the prevention of disease in humans. Therefore, BECS and BECS accessories are not covered by section 520(o)(1)(D) of the FD&C Act, and FDA regulates BECS and BECS accessories as devices.

(Comment 5) One comment asked if software intended for the maintenance of data that blood establishments use in making decisions regarding the suitability of donors and the release of blood components for transfusion or further manufacture would be classified as BECS.

(Response 5) Software that uses the stored data for the purposes of identifying ineligible donors, preventing the release of unsuitable blood and blood components for transfusion or for further manufacture, performing compatibility testing between donor and recipient, or performing positive identification of patients and blood components at the point of transfusion would meet the definition of BECS. Software intended for electronic storage of medical data without interpreting or analyzing the data or altering the functions or parameters of any connected medical device would not meet the definition of BECS.

(Comment 6) One comment stated that the definition of BECS does not cover middleware applications used to send data from a device used in blood collection centers to a Donor Management System and asked for clarification regarding the regulation of such products.

(Response 6) Middleware applications that only transfer medical data from one medical device to another medical



device and do not augment the performance or expand or modify the indications for use of the BECS would not meet the definition of a BECS accessory.

(Comment 7) One comment questioned whether beta testing should be included as a special control.

(Response 7) The final regulation includes verification and validation testing as a special control. Verification and validation testing should include beta testing which can be performed in a user environment or simulated user environment.

The guidance document entitled “General Principles of Software Validation; Final Guidance for Industry and FDA Staff” issued January 11, 2002 (Ref. 4), provides recommendations on software validation.

(Comment 8) One comment asked FDA to clarify its expectations with respect to the development and presentation of a traceability matrix.

(Comment 8) FDA has provided recommendations for developing a traceability matrix in the document entitled, “Guidance for Industry and FDA Staff: Guidance for the Content of Premarket Submissions for Software Contained in Medical Devices,” issued May 11, 2005 (Ref. 5).

(Comment 9) One comment recommended we review BECS and BECS accessories through the PMA (class III) approval process since there have been injuries and deaths associated with these devices. The comment also stated that there is not sufficient information to establish class II special controls for the devices.

(Response 9) Although BECS and BECS accessories are currently unclassified, FDA has regulated these devices for more than 20 years, and during this time period, FDA has applied standards for class II devices in reviewing 510(k)s for these devices. No deaths or serious injuries have been attributed to the malfunction of the device. As described in FDA’s Executive Summary to the BPAC meeting of December 3, 2014 (Ref. 3), valid scientific evidence, including the published literature, medical device reports, recall information, and FDA’s extensive inspection and regulatory experiences with these device types, supports classifying BECS and BECS accessories into Class II with special controls. After considering this evidence, the Panel recommended classification of BECS and BECS accessories as a Class II device with special controls. After considering the recommendations of the Panel and the valid scientific evidence, FDA proposed that BECS and BECS accessories be

classified into class II (special controls) with premarket review. In the proposed rule, FDA proposed that special controls, in addition to general controls, would provide a reasonable assurance of the safety and effectiveness of BECS and BECS accessories and would, therefore, mitigate the risks to patients of transfusion reaction or death and transmission of infectious disease and risks to donors because of inappropriate donations. FDA is not aware of any new information that has arisen since this Panel meeting and the publication of the proposed rule that would provide a basis for different recommendations or findings. Accordingly, this final rule classifies BECS and BECS accessories into class II (special controls) with premarket review. For additional information on premarket submissions, please refer to the following guidance documents: “Guidance for Industry and FDA Staff: Guidance for the Content of Premarket Submissions for Software Contained in Medical Devices,” issued May 11, 2005 (Ref. 5), and “Deciding When to Submit a 510(k) for a Software Change to an Existing Device: Guidance for Industry and FDA Staff,” issued October 25, 2017 (Ref. 6).

(Comment 10) One comment stated that the proposed rule lacked a cost/benefit discussion on the proposed classification.

(Response 10) Sections I.D. and VI. of this rule discusses FDA’s economic analysis of impacts of the final rule. As discussed in the proposed rule and in sections I.D. and VI. of this final rule, under current practice, manufacturers already conform to the special controls for BECS and BECS accessories. This rule would essentially formalize current practice, and will not result in any additional associated costs or benefits.

(Comment 11) One comment stated that the Center for Devices and Radiological Health in FDA has identified Sanguin Medusa 2000 with the product code MMH; and it is listed as being cleared September 29, 1994, which predates the first FDA cleared 510(k) for BECS identified in the proposed rule.

(Response 11) While this comment is outside the scope of the proposed rule, we appreciate the comment and will ensure that proper product codes are assigned to this product, which is not a BECS or BECS accessory.

#### V. Effective Date

This final rule will become effective 30 days after its publication in the **Federal Register**.

#### VI. Economic Analysis of Impacts

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.” We believe that this final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule is consistent with historical regulatory oversight given to this type of device, and would not impose any additional regulatory burdens, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before issuing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after adjustment for inflation is \$148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount.

This rule classifies BECS and BECS accessories into class II devices with special controls and subject to premarket review. The special controls for these devices are necessary to provide a reasonable assurance of safety and effectiveness. Between 1996 and the time that FDA drafted the proposed rule in December 2015, FDA had cleared 220 BECS and BECS accessories under the 510(k) program, consistent with the recommendations in the FDA guidance, “Guidance for Industry and FDA Staff;

Guidance for the Content of Premarket Submissions for Software Contained in Medical Devices,” issued May 11, 2005 (Ref. 5). As current practice, manufacturers already conform to the recommended controls for BECS and BECS accessories. This rule would essentially formalize current practice and will not result in any additional associated costs. Likewise, this classification will not result in any significant changes in how premarket notifications for the affected devices are submitted or prepared by manufacturers or in how they are reviewed by FDA. Therefore, compliance with the special controls for this device would not yield significant new costs for affected manufacturers. Because the classification of these devices to class II (special controls) would not impose significant new obligations on manufacturers, the Agency concludes that the rule will impose no additional regulatory burdens.

#### VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### VIII. Paperwork Reduction Act of 1995

This final rule refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

#### IX. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

#### X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive Order and, consequently, a tribal summary impact statement is not required.

#### XI. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m. Monday through Friday. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Blood Products Advisory Committee Meeting transcript, March 20, 1998 (<http://www.fda.gov/ohrms/dockets/ac/98/transcript/3391t2.pdf>).
2. Blood Products Advisory Committee Meeting transcript, December 3, 2014 (<https://wayback.archive-it.org/7993/20170111180042/http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/ucm386681.htm>).
3. FDA Executive Summary. Blood Products Advisory Committee Meeting, December 3, 2014 (<https://wayback.archive-it.org/7993/20170111180042/http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/ucm386681.htm>).
4. General Principles of Software Validation; Final Guidance for Industry and FDA Staff, January 11, 2002 (<https://www.fda.gov/downloads/MedicalDevices/.../ucm085371.pdf>).
5. Guidance for Industry and FDA Staff: Guidance for the Content of Premarket Submissions for Software Contained in Medical Devices, May 11, 2005 (<https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm089593.pdf>).
6. Deciding When to Submit a 510(k) for a Software Change to an Existing Device: Guidance for Industry and FDA Staff, October 25, 2017 (<https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm514737.pdf>).

#### List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 864 is amended as follows:

#### PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

- 1. The authority citation for part 864 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

- 2. Add § 864.9165 to subpart J to read as follows:

#### § 864.9165 Blood establishment computer software and accessories.

(a) *Identification.* Blood establishment computer software (BECS) is a device used in the manufacture of blood and blood components to assist in the prevention of disease in humans by identifying ineligible donors, by preventing the release of unsuitable blood and blood components for transfusion or for further manufacturing into products for human treatment or diagnosis, by performing compatibility testing between donor and recipient, or by performing positive identification of patients and blood components at the point of transfusion to prevent transfusion reactions. This generic type of device may include a BECS accessory, a device intended for use with BECS to augment the performance of the BECS or to expand or modify its indications for use.

(b) *Classification.* Class II (special controls). The special controls for these devices are:

- (1) Software performance and functional requirements including detailed design specifications (e.g., algorithms or control characteristics, alarms, device limitations, and safety requirements).
- (2) Verification and validation testing and hazard analysis must be performed.
- (3) Labeling must include:
  - (i) Software limitations;
  - (ii) Unresolved anomalies, annotated with an explanation of the impact on safety or effectiveness;
  - (iii) Revision history; and
  - (iv) Hardware and peripheral specifications.
- (4) Traceability matrix must be performed.
- (5) Performance testing to ensure the safety and effectiveness of the system must be performed, including when adding new functional requirements (e.g., electrical safety, electromagnetic compatibility, or wireless coexistence).

Dated: May 14, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018-10610 Filed 5-17-18; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2018-0320]

RIN 1625-AA08

#### Special Local Regulation; Monongahela, Allegheny, and Ohio Rivers, Pittsburgh Pennsylvania

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for parts of the navigable waters of the Allegheny, Monongahela, and Ohio Rivers. This action is necessary to ensure safety of life on these navigable waters during the weekend of the Luke Bryan concert at Heinz Field. Persons and vessels are prohibited from loitering, anchoring, stopping, mooring, remaining, or drifting in any manner that impedes safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative. In addition, persons and vessels are prohibited from loitering, anchoring, stopping, or drifting more than 100 feet from any riverbank unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective from 4 p.m. on June 29, 2018 through noon on July 1, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0320 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Jennifer Haggins, Marine Safety Unit Pittsburgh Waterways Division, U.S. Coast Guard; telephone 412-221-0807, email [Jennifer.L.Haggins@uscg.mil](mailto:Jennifer.L.Haggins@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

Heinz Field has notified the Coast Guard that it would be holding a concert from 4 p.m. to 11 p.m. on June 30, 2018. Heinz Field is located in close proximity to the banks of the Ohio and Allegheny Rivers, which are high vessel traffic areas used by both commercial and recreational vessels. Due to the proximity of Heinz Field to these waterways, it will be a destination for many recreational vessels that will anchor and loiter throughout the concert weekend of June 29, 2018 to July 1, 2018. In response, on April 17, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Monongahela (MM 0.22), Allegheny (MM 0.8), and Ohio Rivers (0.8), Pittsburgh, PA (83 FR 16808). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this concert. During the comment period that ended May 2, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety concerns and hazards that could occur in this area during the concert.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that this special local regulation is necessary to maintain an open navigation channel and ensure the safety of vessels on these navigable waters during the concert weekend. The Coast Guard is concerned about possible collisions that could occur in this area and the impact of vessel congestion on maritime commerce due to transit delays. The purpose of this rulemaking is to ensure the safety of vessels on the navigable waters adjacent to Heinz Field, the Allegheny, Monongahela, and Ohio Rivers before, during, and after the Luke Bryan concert weekend.

### IV. Discussion of Comments, Changes, and the Rule

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

This rule establishes a special local regulation from 4 p.m. on June 29, 2018 through noon on July 1, 2018. The special local regulation covers all navigable waters of the Allegheny, Monongahela, and Ohio Rivers between the Ninth Street Highway Bridge at mile marker (MM) 0.8, Allegheny River, Fort Pitt Highway Bridge at MM 0.22, Monongahela River, and West End-North Side Highway Bridge at MM 0.8, Ohio River. The duration of the zone is intended to ensure the safety of vessels on these navigable waters during the concert weekend. This special local regulation applies to any vessel operating within the area, including a naval or public vessel, except a vessel engaged in law enforcement, servicing aids to navigation, or surveying, maintaining, or improving waters within the regulated area. No vessel is permitted to loiter, anchor, stop, moor, remain or drift in any manner that impedes safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the COTP or a designated representative. In addition, no vessel or person is permitted to loiter, anchor, stop, remain, or drift more than 100 feet from any riverbank unless authorized by the COTP or a designated representative. Persons and vessels seeking entry into the regulated area must request permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. They may be contacted on VHF-FM Channel 16. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

### V. Regulatory Analyses

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

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and

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

This regulatory action determination is based on the size and location of the special local regulation. The special local regulation will impact a small section of the Allegheny, Monongahela, and Ohio Rivers, less than three total miles. Moreover, the special local regulation does not stop vessels from transiting the area, it only establish certain areas where vessels are prohibited from loitering, anchoring, stopping, or drifting. Finally, the Coast Guard will issue Broadcast Notice to Mariners (BNMs) via VHF-FM marine channel 16 about the regulated area and the rule allows vessels to seek permission to enter the regulated area.

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

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

#### *C. Collection of Information*

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

#### *D. Federalism and Indian Tribal Governments*

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

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

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule

will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation covering less than 3 miles and lasting approximately 3 days. It will prohibit persons and vessels from loitering, anchoring, stopping, or drifting more than 100 feet from any riverbank or act in a manner that impedes the passage of another vessel to any launching ramp, marina, or fleeting area. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### *G. Protest Activities*

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

#### **List of Subjects in 33 CFR Part 100**

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Add § 100.T08–0320 to read as follows:

**§ 100.T08–0320 Special Local Regulation; Monongahela River (MM 0.22), Allegheny River (MM 0.8), and Ohio River (MM 0.8), Pittsburgh, PA.**

(a) *Location.* The following is a special local regulation for all navigable waters of the Allegheny, Monongahela, and Ohio Rivers between the Ninth Street Highway Bridge at mile marker (MM) 0.8, Allegheny River, Fort Pitt Highway Bridge at MM 0.22, Monongahela River, and West End-North Side Highway Bridge at MM 0.8, Ohio River.

(b) *Applicability.* This section applies to any vessel operating within the area, including a naval or public vessel, except a vessel engaged in:

- (1) Law enforcement;
- (2) Servicing aids to navigation; or
- (3) Surveying, maintaining, or improving waters within the regulated area.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.801, no vessel shall loiter, anchor, stop, moor, remain, drift, or act in any manner as to impede safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

(2) No vessel shall loiter, anchor, stop, moor, remain or drift at any time more than 100 feet from any riverbank within the regulated area unless authorized by the COTP or a designated representative.

(3) Persons and vessels seeking entry into the regulated area must request permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. They may be contacted on VHF–FM Channel 16.

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

(d) *Effective period.* This section is effective from 4 p.m. on June 29, 2018 through noon on July 1, 2018.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: May 9, 2018.

**L. McClain, Jr.,**

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

[FR Doc. 2018–10626 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2018–0406]

**Drawbridge Operation Regulation; Sacramento River, Sacramento, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow participants of the Weave Event to cross the drawspan safely and without interruption. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 12:45 p.m. through 1:50 p.m. on May 20, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0406, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

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

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

The drawspan will be secured in the closed-to-navigation position from 12:45 p.m. through 1:50 p.m. on May 20, 2018, to allow the participants of the Weave

Event to cross the drawspan safely and without interruption. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at any time. In the event of an emergency, the draw can open on signal if at least one-hour notice is given to the bridge operator. There are no immediate alternate routes for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 15, 2018.

**C.T. Hausner,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2018–10640 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2018–0390]

**Drawbridge Operation Regulation; Lake Champlain, North Hero Island, VT**

**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 US2 Bridge across Lake Champlain, mile 91.8, between South Hero Island and North Hero Island, Vermont. This deviation is necessary to extend the operating life of the drawbridge until a replacement bridge is constructed. The deviation is necessary to allow the bridge to open only on the hour during the day for the 2018 boating season.

**DATES:** This deviation is effective without actual notice from May 18, 2018, to 8 p.m. on October 15, 2018. For the purposes of enforcement, actual notice will be used from 8 a.m. on May 15, 2018, to May 18, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2017–0390, 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 Jeffrey Stieb; Bridge Management Specialist, First Coast Guard District, telephone 617–223–8364, email [Jeffrey.D.Stieb@uscg.mil](mailto:Jeffrey.D.Stieb@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The bridge owner, Vermont Agency of Transportation, requested a temporary deviation from the normal operating schedule of the US2 Bridge, mile 91.8, across Lake Champlain at North Hero Island, Vermont. The drawbridge navigation span has a vertical clearance of 18 feet at ordinary low water in the closed position. The existing bridge operating regulations are found at 33 CFR 117.993(b).

Under this temporary deviation, the US2 Bridge shall open daily on signal only on the hour from 8 a.m. to 8 p.m. from May 15, 2018 through October 15, 2018.

The waterway is transited by seasonal recreational vessels of various sizes. Several marina facilities are in the area of the bridge. Vessels that are able to pass under the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies, and for vessels unable to pass through the bridge in the closed position there is an alternate route to the north under the Alburg Passage US2 fixed bridge. The Alburg Passage US2 Bridge has a vertical clearance of 25 feet at ordinary low water. The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 7, 2018.

**Christopher J. Bisignano,**

*Supervisory Bridge Management Specialist,  
First Coast Guard District.*

[FR Doc. 2018–10594 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2018–0432]

#### Drawbridge Operation Regulation; Sacramento River, Walnut Grove, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Walnut Grove Drawbridge across the Sacramento River, mile 26.7, at Walnut Grove, CA. The deviation is necessary to allow participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 11 a.m. through 3 p.m. on May 17, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0432, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

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

**SUPPLEMENTARY INFORMATION:** Sacramento County has requested a temporary change to the operation of the Walnut Grove Drawbridge, mile 26.7, over the Sacramento River, at Walnut Grove, CA. The drawbridge navigation span provides a vertical clearance of 21 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 11 a.m. through 3 p.m. on May 17, 2018, to allow the participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to

open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 15, 2018.

**C.T. Hausner,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2018–10650 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG–2018–0431]

#### Drawbridge Operation Regulation; Sacramento River, Freeport, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Sacramento County highway bridge across the Sacramento River, mile 46.0, at Freeport, CA. The deviation is necessary to allow participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

**DATES:** This deviation is effective from 11 a.m. through 3 p.m. on May 17, 2018.

**ADDRESSES:** The docket for this deviation, USCG–2018–0431, is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation.

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

**SUPPLEMENTARY INFORMATION:**

Sacramento County has requested a temporary change to the operation of the Sacramento County highway bridge, mile 46.0, over the Sacramento River, at Freeport, CA. The drawbridge navigation span provides a vertical clearance of 29 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(b). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 11 a.m. through 3 p.m. on May 17, 2018, to allow the participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

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

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

Dated: May 9, 2018.

**Carl T. Hausner,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2018-10595 Filed 5-17-18; 8:45 am]

BILLING CODE 9110-04-P

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**DEPARTMENT OF HOMELAND SECURITY**
**Coast Guard**
**33 CFR Part 165**

[Docket Number USCG-2017-1066]

RIN 1625-AA00

**Safety Zone; Ohio Street Beach Swim Course, Lake Michigan, Chicago Harbor, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is establishing a safety zone on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. This action is necessary and intended to ensure safety of life on the navigable waters of the United States during swim events that occur throughout each calendar year. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Lake Michigan.

**DATES:** This rule is effective June 18, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-1066 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email If you have questions about this rule, call or email LT John Ramos, Marine Safety Unit (MSU) Chicago, U.S. Coast Guard; telephone (630) 986-2155, email [D09-DG-MSUChicago-Waterways@uscg.mil](mailto:D09-DG-MSUChicago-Waterways@uscg.mil).

**SUPPLEMENTARY INFORMATION:**
**I. Table of Abbreviations**

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

**II. Background Information and Regulatory History**

Each year, many swim events occur on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. These events take place more frequently in the summer months. The Captain of the Port, Lake Michigan has determined that the size and nature of these events will pose a significant risk to public safety and property. The potential hazards associated with these events would be a safety concern for participants as well as recreational and commercial traffic in or around the course where the events take place. In response, on February 6, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Ohio Street Beach Swim Course, Lake Michigan, Chicago Harbor, Chicago, IL (USCG-2017-1066). The NPRM addressed the need for the safety zone and invited the public to comment on the proposed regulatory action. During the comment period that ended March 8, 2018, the Coast Guard received four comments.

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

The purpose of the rulemaking is to ensure the safety of vessels, persons and the navigable waters before, during, and after a scheduled event. The specific hazards include collisions among event participants, recreational traffic, and commercial traffic that may cause injury or marine casualties. The Coast Guard is issuing this rulemaking under authority in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

**IV. Discussion of Comments, Changes, and the Rule**

As noted above, four comments were received the NPRM published February 6, 2018. All four comments had mixed concerns with the duration of the safety zone. For clarification, the safety zone will be in effect no longer than the time necessary to ensure the safety of the participants during each specific swim event. Another comment questioned how the safety zone will be marked and what repercussions there are for entering the safety zone. Safety zones are not typically marked by physical markers or buoys. The safety zone's specific enforcement period will be disseminated by the Captain of the Port, Lake Michigan or a designated on-scene representative, broadcasted via Local Notice to Mariners, Broadcast Notice to Mariners, and/or shared via the Coast Guard's web page and social media platforms. Pursuant to 33 U.S.C. 1232 and 33 CFR 27.3, any person who operates a vessel in this safety zone without permission from the Coast Guard Captain of the Port, Lake Michigan or designated representative may be subject to applicable civil or criminal penalties. The last comment regarded the definition of large-scale event. After review, the Coast Guard amended this final rule by removing the verbiage "large-scale" event.

The Captain of the Port, Lake Michigan has determined that this safety zone is necessary to ensure the safety of the public during swim events that take place on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. The Captain of the Port will notify the public when the safety zone in this rule will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification will include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.



This zone will encompass all waters bound by a line drawn from 41°53.7767' N, 087°36.48' W then North to 41°53.9517' N, 087°36.505' W then Northwest to 41°54.1533' N, 087°36.6933' W then Southwest to 41°54.065' N, 087°37.1517' W then Southeast to 41°53.6033' N, 087°36.8333' W then East to 41°53.6317' N, 087°36.7017' W and then along the shoreline back to the point of origin (NAD83).

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port, Lake Michigan or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone, which would impact the designated area of Lake Michigan in Chicago Harbor for no longer than the time necessary to ensure the safety of the swim event.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations

that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

principles and preemption requirements described in Executive Order 13132.

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting no longer than the time necessary to ensure the safety of the swim events that take place on Lake Michigan in Chicago Harbor, near the Ohio Street Beach in Chicago, IL. It is categorically excluded from further review under paragraph L(60)(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protestors. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without



jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 165

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

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

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

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

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

■ 2. Add § 165.932 to read as follows:

#### § 165.932 Safety Zone; Ohio Street Beach Swim Course, Lake Michigan, Chicago Harbor, Chicago, IL.

(a) *Location.* All U.S. navigable waters of Lake Michigan bound by a line drawn from 41°53.7767' N, 087°36.48' W then North to 41°53.9517' N, 087°36.505' W then Northwest to 41°54.1533' N, 087°36.6933' W then Southwest to 41°54.065' N, 087°37.1517' W then Southeast to 41°53.6033' N, 087°36.8333' W then East to 41°53.6317' N, 087°36.7017' W and then along the shoreline back to the point of origin (NAD83).

(b) *Enforcement period.* The safety zone established by this section will be enforced only upon notice by the Captain of the Port, Lake Michigan. The Captain of the Port, Lake Michigan will publish notices of enforcement in accordance with 33 CFR 165.7(a) and in a manner that provides as much notice as possible. The primary method of notification will be through publication to the Federal Register. The Captain of the Port, Lake Michigan, may also provide notice through other means, such as Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan or a designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or a designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port, Lake Michigan

is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan or an on-scene representative may be contacted via VHF Channel 16 or at (414) 747–7182.

Dated: April 26, 2018.

**Thomas J. Stuhlreyer,**

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

[FR Doc. 2018–10674 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2018–0224]

RIN 1625–AA08

#### Special Local Regulation; Monongahela, Allegheny, and Ohio Rivers, Pittsburgh Pennsylvania

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for parts of the navigable waters of the Allegheny, Monongahela, and Ohio Rivers. This action is necessary to ensure safety of life on these navigable waters during the weekend of the Kenny Chesney concert at Heinz Field. Persons and vessels are prohibited from loitering, anchoring, stopping, mooring, remaining, or drifting in any manner that impedes safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative. In addition, persons and vessels are prohibited from loitering, anchoring, stopping, or drifting more than 100 feet from any riverbank unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective from 4 p.m. on June 1, 2018 through 3 p.m. on June 3, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being

available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0224 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Jennifer Haggins, Marine Safety Unit Pittsburgh Waterways Division, U.S. Coast Guard; telephone 412–221–0807, email [Jennifer.L.Haggins@uscg.mil](mailto:Jennifer.L.Haggins@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

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

On March 7, 2018, Heinz Field notified the Coast Guard that it would be holding a concert from 4 p.m. to 11 p.m. on June 2, 2018. Heinz Field is located in close proximity to the banks of the Ohio and Allegheny Rivers, which are high vessel traffic areas used by both commercial and recreational vessels. Due to the proximity of Heinz Field to these waterways, it will be a destination for many recreational vessels to anchor and loiter throughout the concert weekend of June 1, 2018 to June 3, 2018. In response to the notification, on April 19, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Monongahela, Allegheny, and Ohio Rivers, Pittsburgh PA (83 FR 17333). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this concert. During the comment period that ended May 4, 2018, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety concerns and hazards that could occur in this area during the concert.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that this special local regulation is necessary

to maintain an open navigation channel and ensure the safety of vessels on these navigable waters during the concert weekend. Risk of collisions near Heinz Field is a safety concern for any vessel loitering, anchoring, stopping, or drifting more than 100 feet from a riverbank or in a manner that impedes the passage of another vessel to any launching ramp, marina, or fleeting area. The purpose of this rulemaking is to ensure the safety of vessels on the navigable waters adjacent to Heinz Field, the Allegheny, Monongahela, and Ohio Rivers before, during, and after the Kenny Chesney concert weekend.

#### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 19, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation from 4 p.m. on June 1, 2018 through 3 p.m. on June 3, 2018. The special local regulation will cover all navigable waters of the Allegheny, Monongahela, and Ohio Rivers between the Ninth Street Highway Bridge at mile marker (MM) 0.8, Allegheny River, Fort Pitt Highway Bridge at MM 0.22, Monongahela River, and West End-North Side Highway Bridge at MM 0.8, Ohio River. The duration of the zone is intended to ensure the safety of vessels on these navigable waters. This special local regulation applies to any vessel operating within the area, including a naval or public vessel, except a vessel engaged in law enforcement, servicing aids to navigation, or surveying, maintaining, or improving waters within the regulated area. No vessel is permitted to loiter, anchor, stop, moor, remain or drift in any manner that impedes safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the COTP or a designated representative. In addition, no vessel or person is permitted to loiter, anchor, stop, remain, or drift more than 100 feet from any riverbank unless authorized by the COTP or a designated representative. Persons and vessels seeking entry into the regulated area must request permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. They may be contacted on VHF-FM Channel 16. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all

lawful directions issued by the COTP or the designated representative.

#### V. Regulatory Analyses

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

##### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and location of the special local regulation. The special local regulation will impact a small section of the Allegheny, Monongahela, and Ohio Rivers, less than three total miles. Moreover, the special local regulation will not stop vessels from transiting the area, it will only establish certain areas where vessels are prohibited from loitering, anchoring, stopping, or drifting.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

##### C. Collection of Information

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

##### D. Federalism and Indian Tribal Governments

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

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation covering less than 3 miles and lasting approximately 3 days. It will prohibit persons and vessels from loitering, anchoring, stopping, or drifting more than 100 feet from any riverbank or act in a manner that impedes the passage of another vessel to any launching ramp, marina, or fleeting area. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

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

### List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 33 CFR 1.05–1.

■ 2. Add § 100.T08–0224 to read as follows:

### § 100.T08–0224 Special Local Regulation; Monongahela, Allegheny, and Ohio Rivers, Pittsburgh, PA.

(a) *Location.* The following is a special local regulation for all navigable waters of the Allegheny, Monongahela, and Ohio Rivers between the Ninth Street Highway Bridge at mile marker (MM) 0.8, Allegheny River, Fort Pitt Highway Bridge at MM 0.22, Monongahela River, and West End-North Side Highway Bridge at MM 0.8, Ohio River.

(b) *Applicability.* This section applies to any vessel operating within the area, including a naval or public vessel, except a vessel engaged in:

- (1) Law enforcement;
- (2) Servicing aids to navigation; or
- (3) Surveying, maintaining, or improving waters within the regulated area.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.801, no vessel shall loiter, anchor, stop, moor, remain, drift, or act in any manner as to impede safe passage of another vessel to any launching ramp, marina, or fleeting area unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

(2) No vessel shall loiter, anchor, stop, moor, remain or drift at any time more than 100 feet from any riverbank within the regulated area unless authorized by the COTP or a designated representative.

(3) Persons and vessels seeking entry into the regulated area must request permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Marine Safety Unit Pittsburgh. They may be contacted on VHF–FM Channel 16.

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

(d) *Effective period.* This section will be effective from 4 p.m. on June 1, 2018 through 3 p.m. on June 3, 2018.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any

changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: May 9, 2018.

**L. McClain, Jr.,**

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

[FR Doc. 2018–10624 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG–2018–0441]

RIN 1625–AA00

### Safety Zone; Ohio River Mile Marker 27.8 to Mile Marker 28.2, Vanport, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River from mile marker 27.8 to mile marker 28.2 near the Vanport Highway Bridge. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by two separately occurring cargo movements near the Vanport Highway Bridge in Vanport, PA. Entry of vessels or persons into the zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

**DATES:** This rule is effective without actual notice from May 18, 2018 through 6 p.m. on May 27, 2018. For the purposes of enforcement, actual notice will be used from 8 a.m. on May 12, 2018 through May 18, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0441 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807, email [Jennifer.L.Haggins@uscg.mil](mailto:Jennifer.L.Haggins@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Marine Safety Unit Pittsburgh
DHS	Department of Homeland Security
FR	Federal Register
MM	Mile marker
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

## II. Background Information and Regulatory History

On May 8, 2018, Bechtel notified the Coast Guard that there will be two cargo movements in the vicinity of the Vanport Highway Bridge that could create potential hazards for the bridge's structural integrity over the next several weeks. The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We did not receive notice of these cargo operations until May 8, 2018. The safety zone must be established by May 12, 2018, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zones until after the dates of the cargo operations and compromise public safety.

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

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that potential hazards associated with two cargo movement operations that will take place between May 12, 2018 and May 27, 2018 will be a safety concern for anyone within a half-mile stretch of

the Ohio River. This rule is necessary to protect personnel, vessels, and the marine environment in the navigable waters before, during, and after the cargo movements.

## IV. Discussion of the Rule

This rule establishes a safety zone for all navigable waters of the Ohio River from mile marker 27.8 to mile marker 28.2. It is effective from 8 a.m. on May 12, 2018 through 6 p.m. on May 27, 2018. Entry into the safety zone during the enforcement period is prohibited unless authorized by the COTP or a designated representative. Subject to the cargo delivery intervals and potential inclement weather, the periods of enforcement will be 30 minutes prior to, during, and 1 hour after any cargo movement near the Vanport Highway Bridge. The Coast Guard was informed that the two cargo movement operations would take place during daylight hours only and last approximately 4 hours each. A safety vessel will coordinate all vessel traffic during the enforcement periods. The COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), and/or Marine Safety Information Broadcasts (MSIBs), or through other means of public notice, as appropriate, at least 3 hours in advance of the enforcement periods. The duration of the zones is intended to protect personnel, vessels, and the marine environment in these navigable waters during cargo movement operations. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Marine Safety Unit Pittsburgh. They may be contacted on VHF-FM Channel 16 or 67. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zones. This safety zone will be enforced for a period of approximately four hours on two separate days between May 12, 2018 and May 27, 2018 on less than a half mile of the Ohio River. The Coast Guard will issue LNM, BNM, and MSIBs, about the temporary safety zone, and this rule allows vessels to seek permission from the COTP or a designated representative to enter the safety zones.

### B. Impact on Small Entities

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have

analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that prohibits entry on a half-mile stretch of the Ohio River for 4 hours between May 12, 2018 and May 27, 2018. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination will be made available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to

coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 165

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

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

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

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

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

■ 2. Add § 165.T08–0441 to read as follows:

#### § 165.T08–0441 Safety Zone; Ohio River mile marker 27.8 to mile marker 28.2, Vanport, PA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Ohio River from mile marker (MM) 27.8 to MM 28.2.

(b) *Effective period.* This section is effective from 8 a.m. on May 12, 2018 through 6 p.m. on May 27, 2018.

(c) *Enforcement period.* Subject to cargo delivery intervals and potential inclement weather, this section will be enforced on two separate occasions during the effective period. Each will be 30 minutes prior to, during, and 1 hour after any cargo movement in the vicinity of the Vanport Highway Bridge. The Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative will inform the public of the enforcement period through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), and/or Marine Safety Information Broadcasts (MSIBs) or through other means of public notice at least 3 hours in advance of the enforcement period. A safety vessel will coordinate all vessel traffic during the enforcement of these safety zones.

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

(2) Vessels requiring entry into the safety zone must request permission

from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67.

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

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through LNM, BNM, or MSIBs as appropriate.

Dated: May 11, 2018

L. McClain, Jr.,

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

[FR Doc. 2018–10625 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2018–0368]

RIN 1625–AA00

#### Safety Zone; Tuskegee Airmen River Days Air Show, Detroit River, Detroit, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters in the vicinity of Detroit, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Tuskegee Airmen River Days Airshow.

**DATES:** This temporary final rule is effective from 12:30 p.m. on June 22, 2018 until 8 p.m. on June 25, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0368 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations

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

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this air show in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would inhibit the Coast Guard’s ability to protect participants, mariners and vessels from the hazards associated with this event.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Detroit (COTP) has determined that an aircraft aerial display proximate to a gathering of watercraft poses a significant risk to public safety and property. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the airshow is being displayed.

## IV. Discussion of the Rule

This rule establishes a safety zone from 12:30 p.m. on June 22, 2018 until 8 p.m. on June 25, 2018. The safety zone will encompass all U.S. navigable waters of the Detroit River between the following two lines extending from 70 feet off the bank to the US/Canadian demarcation line: The first line is drawn directly across the channel at position 42°19.444’ N, 083°03.114’ W (NAD 83); The second line, to the north, is drawn directly across the channel at position 42°19.860’ N 083°01.683’ W (NAD 83).

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Detroit River for no more than four hours per day from 12:30 p.m. on June 22, 2018 until 8 p.m. June 25, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

### B. Impact on Small Entities

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

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

economic impact on any vessel owner or operator.

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

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

**FURTHER INFORMATION CONTACT** section above.

#### E. *Unfunded Mandates Reform Act*

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

#### F. *Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. *Protest Activities*

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

#### List of Subjects in 33 CFR Part 165

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

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

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

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0368 to read as follows:

#### **§ 165.T09–0368 Safety Zone; Tuskegee Airmen River Days Air Show, Detroit River, Detroit, MI.**

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the Detroit River between the following two lines extending 70 feet off the bank to the US/Canadian demarcation line: the first line is drawn directly across the channel at position 42°19.444' N, 083°03.114' W (NAD 83); the second line, to the north, is drawn directly across the channel, at position 42°19.860' N 083°01.683' W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 12:30 p.m. through 4 p.m. on June 22, 2018; 3 p.m. through 5:30 p.m. on June 23, 2018 and June 24, 2018; and 4 p.m. until 8 p.m. on June 25, 2018.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

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

(3) The “on-scene representative” of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at 313–568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: May 3, 2018.

**Jeffrey W. Novak,**

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

[FR Doc. 2018–10645 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG–2018–0248]

RIN 1625–AA00

#### **Safety Zone; Algonac Fireworks, St. Clair River, Algonac, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 700-foot radius of a portion of the St. Clair River, Algonac, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Algonac Fireworks.

**DATES:** This temporary final rule is effective from 10 p.m. on June 29, 2018 through 11:30 p.m. on June 30, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0248 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

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

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

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM)



with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Detroit (COTP) has determined that potential hazard associated with fireworks from 10 p.m. on June 29, 2018 through 11:30 p.m. on June 30, 2018 will be a safety concern to anyone within a 700-foot radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

### IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. on June 29, 2018 through 11:30 p.m. on June 30, 2018. The safety zone will encompass all U.S. navigable waters of the St. Clair River, Algonac, MI, within a 700-foot radius of position 42°37.1' N, 082°31.36' W (NAD 83). No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

### V. Regulatory Analyses

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

#### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone.

Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the St. Clair River during enforced times from 10 p.m. on June 29 through 11:30 p.m. on June 30, 2018. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

#### B. Impact on Small Entities

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

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

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

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

#### C. Collection of Information

This rule will not call for a new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

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

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

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves two enforced times during the duration of the safety zone lasting one and a half hours each that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table



1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

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

#### List of Subjects in 33 CFR Part 165

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

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

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

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

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

■ 2. Add § 165.T09–0248 to read as follows:

#### § 165.T09–0248 Safety Zone; Algonac Fireworks, St. Clair River, Algonac, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the St. Clair River, Algonac, MI, within a 700-foot radius of position 42°37.1' N, 082°31.36' W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) will be enforced from 10 p.m. through 11:30 p.m. on June 29, 2018 and June 30, 2018.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

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

(3) The “on-scene representative” of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to

obtain permission to enter or operate within the safety zone. The COTP or his on-scene representative may be contacted via VHF Channel 16 or at (313) 568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: May 3, 2018.

**Jeffrey W. Novak,**

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

[FR Doc. 2018–10647 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2017–0620; FRL–9978–19–Region 9]

### Approval and Promulgation of Implementation Plans; California; California Mobile Source Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a submittal by the State of California (“State”) to revise its State Implementation Plan (SIP). The submittal consists of State regulations establishing standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. The EPA is approving the SIP revision because the regulations meet the applicable requirements of the Clean Air Act. Approval of these regulations as part of the California SIP makes them federally enforceable.

**DATES:** This rule is effective on June 18, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2017–0620. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER**

**INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, EPA Region IX, (415) 972–3963, [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to the EPA.

#### Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. Proposed Action

On February 27, 2018 (83 FR 8403) (“proposed rule”), the EPA proposed to approve a SIP revision submitted by the California Air Resources Board (CARB) on June 15, 2017. The submittal consists of certain state regulations establishing standards and other requirements relating to the control of emissions from new on-road and new and in-use off-road vehicles and engines (referred to herein as “mobile source regulations”) for which the EPA has previously issued waivers or authorizations under section 209(b) or section 209(e)(2), respectively, of the Clean Air Act (“Act” or CAA).

Our proposed rule provided background information concerning the CAA, national ambient air quality standards (NAAQS), SIPs, and other matters pertinent to this rulemaking. See 83 FR at 8403–8404. We noted in particular that a basic content requirement for SIPs is that they include enforceable emission limitations and other control measures, means, or techniques as may be necessary or appropriate to meet the applicable requirements of the CAA (see section 110(a)(2)(A)). We also noted that the EPA’s long-standing practice was to allow California emissions reductions credit for mobile source regulations for which the EPA had issued waivers or authorizations under section 209 but that had not been submitted or approved as part of the SIP. We noted that the EPA’s rationale for this long-standing practice was rejected by the United States Court of Appeals for the Ninth Circuit in *Committee for a Better Arvin v. EPA*, 786 F.3d 1169 (9th Cir. 2015) (*Committee for a Better Arvin*), and that the decision in *Committee for a Better Arvin* led to submittals by CARB of numerous mobile source regulations as SIP revisions on August 14, 2015, December 7, 2016, and June 15, 2017.

In our proposed rule, we described CARB’s June 15, 2017 SIP revision as consisting of the regulations themselves and documentation of the public

process conducted by CARB in approving the regulations as part of the California SIP. Specifically, the proposed rule included Table 1 (see below), which presents the contents of the SIP revision by mobile source category and provides, for each category, a listing of the relevant

sections of the California Code of Regulations (CCR) that establish standards and other requirements for control of emissions from new on-road and new or in-use off-road vehicles or engines; the corresponding date of CARB's hearing or Executive Officer action through which the regulations or

amendments were adopted; and the notice of decision in which the EPA granted a waiver or authorization for the given set of regulations. For this final rule, we are republishing Table 1 from the proposed rule.

TABLE 1—CARB SIP REVISION SUBMITTAL SUMMARY

Source category	Relevant sections of California Code of Regulations	Date of relevant CARB hearing or executive officer action	EPA notice of decision
Commercial Harbor Craft (CHC)	17 CCR section 93118.5 (excluding (e)(1)), effective for State law purposes on July 20, 2011.	June 24, 2010 .....	82 FR 6500 (January 19, 2017).
In-Use Diesel-Fueled Transport Refrigeration Units (TRUs).	13 CCR sections 2477, 2477.1 through 2477.21, effective for State law purposes on October 15, 2012.	October 21, 2011 ...	82 FR 6525 (January 19, 2017).
On-Road Heavy-Duty Diesel Engines (HDD).	13 CCR section 1956.8, effective for State law purposes on December 22, 2011, and the document incorporated by reference (see table 2 below).	June 23, 2011 .....	82 FR 4867 (January 17, 2017).
Off-Highway Recreational Vehicles (OHRVs).	13 CCR sections 2416, 2417, 2418, 2419, 2419.1–2419.4, effective for State law purposes on April 1, 2015, and the document incorporated by reference (see table 2 below).	July 25, 2013 .....	82 FR 6540 (January 19, 2017).

The regulations submitted by CARB and listed in Table 1 incorporate by reference certain documents that establish test procedures and labeling specifications, among other things, and CARB submitted these documents as part of the overall SIP revision. In our

proposed rule, we included a table (republished as Table 2 below) that listed the incorporated documents included in the SIP submittal. Our proposed rule also included a third table in which we described the applicability of the regulations listed in

Table 1 above and summarized some of the key emissions control requirements contained in the rules. See 83 FR at 8305. In this action, we are approving the regulations in Table 1 and the test procedures and specifications in Table 2 as a revision to the California SIP.

TABLE 2—DOCUMENTS INCORPORATED BY REFERENCE IN CARB REGULATIONS LISTED IN TABLE 1 AND SUBMITTED AS PART OF SIP REVISION

<i>On-Road Heavy-Duty Diesel Engines:</i> California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as last amended October 12, 2011.
<i>Off-Highway Recreational Vehicles and Engines:</i> Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles (TP–933), dated November 5, 2014.

In our proposed rule, we described how we evaluated the regulations and how we determined that the regulations meet all applicable CAA requirements for SIPs and SIP revisions. See 83 FR at 8406–8407. In short, we determined that:

- CARB has provided adequate public notice of a comment period and a hearing on the draft SIP revision prior to adoption and submittal to the EPA, and thereby complied with the applicable procedural requirements for SIP revisions under the CAA section 110(l) and 40 CFR 51.102;
- CARB has adequate legal authority to implement the regulations because state law so provides, because the regulations are not preempted under the CAA (due to the EPA's grant of waivers or authorizations for them under CAA section 209), and because CARB is not

otherwise prohibited by any provision of federal or state law from carrying out the regulations;

- The regulations include all the elements necessary to provide for practical enforceability, including clear applicability and exemption provisions, emissions standards and other requirements, test methods, recordkeeping and reporting provisions, and thereby establish enforceable emissions limitations as required under CAA section 110(a)(2)(A);
- CARB's mobile source regulations achieve emissions reductions and thereby support the various reasonable further progress, attainment, and maintenance plans developed by California to meet CAA SIP requirements, and thus would not interfere with such CAA requirements

for the purposes of CAA section 110(l); and

- Given the longstanding nature of CARB's mobile source program, and its documented effectiveness at achieving significant reductions from mobile sources, the State has adequate personnel and funding to carry out the mobile source regulations submitted for approval as part of the California SIP.

For more background information on the regulatory context for this final rule, and for additional detail on the SIP submittal itself, and our evaluation, please see our proposed rule.

**II. Public Comments and EPA Responses**

The EPA's proposed rule, published at 83 FR 8403 (February 27, 2018), provided for a 30-day comment period. The EPA received fifteen anonymous

comment letters in response to the proposed rule. Thirteen of the comments concern issues that are outside the scope of our proposed approval of the California mobile source regulations as a revision to the California SIP. The issues raised in those comments include, but are not limited to, air quality in China, EPA Administrator Scott Pruitt, renewable energy, natural gas, mining, the dangers of electric cars, wind farms, taxes, and wind turbines. We received two comment letters germane to the proposed action. In the paragraphs below, we summarize the relevant comments and provide our responses.

*Comment #1:* The commenter agrees with the EPA's proposed approval of the California mobile source SIP revision and believes that regulation, enforcement, and implementation of the mobile source regulations should be handled on the federal level.

*EPA Response to Comment #1:* As a general matter, the CAA assigns mobile source regulation to the EPA through title II of the Act and assigns stationary source regulation and SIP development responsibilities to the states through title I of the Act. In so doing, the CAA preempts various types of state regulation of mobile sources as set forth in section 209(a) (preemption of state emissions standards for new motor vehicles and engines), section 209(e) (preemption of state emissions standards for new and in-use off-road vehicles and engines), and section 211(c)(4)(A) (preemption of state fuel requirements for motor vehicle emission control, *i.e.*, other than California's motor vehicle fuel requirements for motor vehicle emission control—see section 211(c)(4)(B)). For certain types of mobile source emission standards, however, the State of California may request a waiver (for motor vehicles) or authorization (for off-road engines and equipment) for standards relating to the control of emissions and accompanying enforcement procedures. See CAA sections 209(b) (new motor vehicles) and 209(e)(2) (most categories of new and in-use off-road vehicles). In this action, the EPA is approving certain California mobile source regulations for which the EPA has granted waivers or authorizations under CAA sections 209(b) or 209(e)(2).

*Comment #2:* The commenter requests that the exclusion of 17 CCR 93118.5(e)(1) (relating to low sulfur fuel requirements for commercial harbor craft) from the SIP action be reconsidered in light of the associated emissions reductions from the requirement to use such fuel.

*EPA Response to Comment #2:* The specific paragraph in question was not submitted to the EPA as part of CARB's June 15, 2017 SIP revision and thus is not subject to the EPA's review and approval or disapproval at this time. We agree that CARB should submit the low sulfur fuel requirement for commercial harbor craft as part of the SIP if needed or relied upon to meet any CAA requirements, such as reasonable further progress or attainment demonstrations.

### III. Final Action

Under section 110(k)(3) of the CAA, and for the reasons given in the proposed rule and summarized above, we are taking final action to approve a SIP revision submitted by CARB on June 15, 2017, that includes certain sections of title 13 and title 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. Tables 1 and 2 above list the regulations and related test procedures and other specifications we are approving in this action. We are approving the SIP revision because the regulations (and related test procedures and other specifications) included therein fulfill all relevant CAA requirements. This final action incorporates by reference the regulations into the federally enforceable SIP for the State of California.

### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain sections of title 13 and title 17 of the California Code of Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

### 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
    - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
    - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
    - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
    - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
    - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
    - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
    - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
    - Does not provide the 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 17, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed,

and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

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

Dated: May 8, 2018.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart F—California**

■ 2. Section 52.220a is amended in paragraph (c) by:

■ a. In table 1:

■ i. Adding an entry for “1956.8(b)” after the entry for “1956.8(b), (c)(1)(A)(3), (d), and (h)(5)”;

■ ii. Adding entries for “2416”, “2417”, “2418”, “2419”, “2419.1”, “2419.2”,

“2419.3”, and “2419.4” after the entry for “2413”;

■ iii. Revising the entry for “2477”;

■ iv. Adding entries for “2477.1”, “2477.2”, “2477.3”, “2477.4”, “2477.5”, “2477.6”, “2477.7”, “2477.8”, “2477.9”, “2477.10”, “2477.11”, “2477.12”, “2477.13”, “2477.14”, “2477.15”, “2477.16”, “2477.17”, “2477.18”, “2477.19”, “2477.20”, and “2477.21” after the entry for “2477”; and

■ v. Revising the entry for “93118.5, excluding (e)(1)”; and

■ b. In table 2:

■ i. Adding an entry for “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as last amended October 12, 2011” after the entry for “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines, as last amended September 1, 2006”; and

■ ii. Adding an entry for “Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles (TP-933), adopted November 5, 2014” after the entry for “California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines, as last amended October 25, 2012”.

The additions and revisions read as follows:

**§ 52.220a Identification of plan—in part.**

\* \* \* \* \*  
(c) \* \* \*

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS <sup>1</sup>

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
1956.8(b)	Exhaust Emissions Standards and Test Procedures—1985 and Subsequent Model Heavy-Duty Engines and Vehicles.	12/22/2011	[Insert <b>Federal Register</b> citation], 5/18/2018.	Updates certain test procedures.
2416	Applicability	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2417	Definitions	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2418	Evaporative Emission Standards and Test Procedures.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2419	Evaporative Emission Control Labels—New Off-Highway Recreational Vehicles.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2419.1	Defect Warranty Requirements for Evaporative Emissions Control Systems of 2018 and Later Model Year Off-Highway Recreational Vehicles.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2419.2	Evaporative Emissions Control System Warranty Statement.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS<sup>1</sup>—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
2419.3	New Off-Highway Recreational Vehicle Evaporative Emission Standards, Enforcement and Recall Provisions, Warranty, Quality Audit, and New Engine Testing.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2419.4	Evaporative Emissions Control System Testing and Certification Requirement.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2416–2419.4 establish certain evaporative emission standards for off-highway recreational vehicles.
2477	Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.1	Purpose	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.2	Applicability	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.3	Exemptions	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.4	Definitions	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.5	Requirements for Owners or Owner/Operators.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.6	Requirements for Terminal Operators.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.7	Requirements for Drivers	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.8	Requirements for Freight Brokers and Freight Forwarders.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.9	Requirements for Motor Carriers	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.10	Requirements for California-Based Shippers.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.11	Requirements for California-Based Receivers.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.12	Requirements for Lessors and Lessees.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS<sup>1</sup>—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
2477.13	Requirements for TRU and TRU Gen Set Original Equipment Manufacturers.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.14	Requirements for TRU, TRU Gen Set, and TRU-Equipped Truck and Trailer Dealers.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.15	Requirements for Repair Shops Located in California that Work on TRUs or TRU Gen Sets.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.16	Requirements for Engine Re-builders.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.17	Facility Reporting	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.18	Prohibitions	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.19	Penalties	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.20	Authority to Request Additional Information.	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
2477.21	Severability	10/15/2012	[Insert <b>Federal Register</b> citation], 5/18/2018.	Sections 2477–2477.21 establish emissions standards and other requirements relating to the control of emissions from in-use diesel-fueled transport refrigeration units (TRUs), TRU generator sets, and facilities where TRUs operate.
93118.5, excluding (e)(1)	Airborne Toxic Control Measure for Commercial Harbor Craft.	7/20/2011	[Insert <b>Federal Register</b> citation], 5/18/2018.	Applicability, exemptions, definitions, engine emission requirements, alternative control provisions, record-keeping and reporting requirements, test methods. Excluded subsection relates to the low sulfur fuel use requirement.

<sup>1</sup> Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

TABLE 2—EPA-APPROVED CALIFORNIA TEST PROCEDURES, TEST METHODS, AND SPECIFICATIONS

Title/subject	State effective date	EPA approval date	Additional explanation
California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as last amended October 12, 2011.	12/22/2011	[Insert <b>Federal Register</b> citation], 5/18/2018.	Submitted by CARB on June 15, 2017.
Test Procedures for Determining Evaporative Emissions from Off-Highway Recreational Vehicles (TP–933), adopted November 5, 2014.	4/1/2015	[Insert <b>Federal Register</b> citation], 5/18/2018.	Submitted by CARB on June 15, 2017.

\* \* \* \* \*

[FR Doc. 2018-10570 Filed 5-17-18; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HOMELAND SECURITY****Transportation Security Administration****49 CFR Part 1552**

[Docket No. TSA-2004-19147]

RIN 1652-AA35

**Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees; Reopening of Comment Period****AGENCY:** Transportation Security Administration, DHS.**ACTION:** Interim final rule; reopening of comment period.

**SUMMARY:** The Transportation Security Administration (TSA) is reopening the comment period for the interim final rule (IFR) that established the Alien Flight Student Program (AFSP). TSA is in the process of finalizing the IFR with modifications to improve the efficiency and efficacy of this program consistent with regulatory reform requirements of Executive Orders (E.O.) 13771 (Jan. 30, 2017) and 13777 (Feb. 24, 2017). To ensure TSA has adequately considered relevant options, we are reopening the comment period on the IFR. In particular, TSA is requesting comments on three types of issues: Scope of security threat assessments (STAs), including who should receive them and the frequency of such assessments; options for reducing the burden of recordkeeping requirements, including the use of electronic records; and sources of data on costs and other programmatic impacts of the rule. TSA is reopening the comment period for an additional 30 days.

**DATES:** The comment period for the interim final rule published at 69 FR 56324 (Sept. 20, 2004), is reopened. Comments must be received by June 18, 2018.

**ADDRESSES:** You may submit comments, identified by the TSA docket number to this rulemaking, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Johannes Knudsen (TSA Alien Flight Student Program) at telephone (571) 227-2188, or David Ross (TSA Office of Chief Counsel) at telephone (571) 227-2465, or email to [afsp.help@tsa.dhs.gov](mailto:afsp.help@tsa.dhs.gov).

**SUPPLEMENTARY INFORMATION:****I. Comments Invited**

TSA published an IFR, with request for comments, in 2004 to establish requirements for alien flight training and security awareness training for flight school employees.<sup>1</sup> TSA evaluated all public comments received on the IFR, whether received before or after the original comment period closed on October 20, 2004. It is not necessary for commenters to resubmit issues previously raised, but TSA believes reopening the comment period is advisable to obtain updated information and perspectives from regulated entities on the impact of the regulation.

TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. See **ADDRESSES** above for information on where to submit comments. In general, TSA seeks comments on the broad areas outlined within this notice. TSA also seeks comments on how this rulemaking could be modified to maximize benefits while reducing excessive, unjustified, or unnecessary costs. We also invite comments relating to the current economic, environmental, energy, or federalism impacts of this regulation.

TSA asks that commenters provide as much information as possible. Whenever possible, please provide citations and copies of any relevant studies or reports on which you rely, as well as any additional data which supports your comment. It is also helpful to explain the basis and reasoning underlying your comment.

TSA appreciates all information provided. While complete answers are preferable, we recognize providing detailed comments on every question could be burdensome and will consider all comments, regardless of whether the response is complete. TSA does not expect every commenter will be able to answer every question. Please respond to those questions you feel able to answer or that address your particular issue.

TSA encourages responses from all interested entities, not just flight schools and the applicants for flight training. If, however, you are not directly subject to this regulation or its requirements, please explain your interest in this rulemaking and how your comments may assist in TSA's development of the final rule.

<sup>1</sup> See docket for this rulemaking or 69 FR 56324 (Sept. 20, 2004).

*General Instructions for Submitting Comments*

All submissions must include the agency name and docket number for this notice. With the exception of items requiring special handling, all comments received will be posted without change to <http://www.regulations.gov>.

*Handling of Confidential or Proprietary Information and SSI Submitted in Public Comments*

Do not submit comments to the public regulatory docket that contain trade secrets, confidential commercial or financial information, or sensitive security information (SSI). Please contact [afsp.help@tsa.dhs.gov](mailto:afsp.help@tsa.dhs.gov) for instructions on how to submit information requiring special handling. TSA will not place such information in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access, and place a note in the public docket explaining commenters have submitted such documents. TSA may include a redacted version of the comment in the public docket. Requests to examine or copy information that is not in the public docket will be treated as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's (DHS') FOIA regulation found in 6 CFR part 5.

*Reviewing Comments in the Docket*

For access to the docket to read background documents or comments, go to <http://www.regulations.gov>. The docket for this rulemaking currently includes the 2004 IFR and all comments received on that rulemaking.

**II. Background**

TSA published the 2004 IFR to fulfill the requirement in Sec. 612(a) of the Vision 100-Century of Aviation Reauthorization Act.<sup>2</sup> The IFR created part 1552, Flight Schools, in title 49 of the Code of Federal Regulations (CFR). The regulation applies to flight schools and to individuals who apply for or receive flight training. TSA issued exemptions and clarifications in response to comments on the regulation and questions raised during operation of

<sup>2</sup> Public Law 108-176, 117 Stat. 2490, 2572 (Dec. 12, 2003). This provision required TSA to establish a process to implement the requirements of Sec. 612(a), including the fee provisions, not later than 60 days after the enactment of the Act.

the program since 2004, most of them within the first year of its implementation.<sup>3</sup> In 2009, TSA published a notice to announce the imposition of fees for processing STAs for alien flight students.<sup>4</sup>

More recently, between 2012 and 2016, members of the aviation industry, the public, and Federal oversight organizations have identified areas where the program could be improved, including specific recommendations from the Aviation Security Advisory Committee regarding this regulation. TSA's internal procedures and processes for vetting applicants also have evolved and matured.

### III. Efficiency and Efficacy Enhancements

The primary benefit of this regulation results from the increased protection of U.S. citizens and property from acts of terrorism. The requirements of 49 CFR part 1552, implemented through the AFSP, decrease the chance a flight school student who poses a security threat will be able to receive flight training from a U.S. flight school in the operation of aircraft that could be used in an act of terrorism. The regulation also improves security at flight schools through the requirement for security awareness training for flight school employees.

We recently reviewed all of our programs to identify options for reducing the regulatory burden, consistent with the requirements of E.O. 13771, Reducing Regulation and Controlling Regulatory Costs (Jan. 30, 2017), and E.O. 13777, Enforcing the Regulatory Reform Agenda (Feb. 24, 2017). As part of this effort, TSA is considering several recommendations made by industry to modify the AFSP regulation. For example, TSA could revise reporting and recordkeeping requirements. *See* 49 CFR 1552.3(i) and 1552.25. These requirements currently

require maintaining paper records on alien flight students, at an annual estimated cost of \$7.4 million, discounted at 7 percent. TSA could establish an electronic recordkeeping platform where all flight providers would upload required student information to a TSA-managed website, eliminating the need to maintain paper records. As TSA increases security by expanding use of recurrent vetting for individuals required to undergo STAs, TSA could also modify the interval for STAs of alien flight students to reduce the scope of information and fees required each time an individual applies for flight training.

As TSA considers available options for maximizing security benefits while minimizing costs, we are seeking comment on the following specific issues:

1. Costs and benefits of requiring flight training providers to undergo a STA. Currently, alien flight students must undergo a STA, but flight school employees responsible for compliance with TSA's requirements are not required to undergo a STA.

2. Impact of modifying STA requirements for alien flight training candidates from an event-based requirement to a time-based requirement. Currently, TSA requires individuals to be vetted before each training event. This requires payment of fees for each training event to complete the STA process. With the expansion of recurrent vetting programs, it may be possible to allow for a time-based STA requirement (such as once every three years) rather than an STA for each training event.

3. Appropriate compliance requirements for parties involved in leases of aircraft, aircraft simulators, and other flight training equipment. For example, TSA could add new regulatory terms and definitions regarding agreements between companies who lease aircraft, aircraft simulators, instructor services, and/or flight training equipment to Federal Aviation Administration (FAA)-certified and non-FAA-certified flight training providers who engage in training in the United States, to clarify which party to such transactions should comply with

AFSP reporting and recordkeeping requirements.

4. Impact of allowing regulated parties to use electronic recordkeeping, in whole or in part, to establish compliance. As much of the information required under this program is currently submitted to TSA in electronic format, TSA could provide validation of information submitted and eliminate the need for all records to be maintained in paper copy by the flight school. To the extent available, please include data on the costs of maintaining paper records for flight schools and how much savings would occur if TSA allowed flight schools to only submit electronic records.

5. Implications of refining the scope of STAs for candidates who train with FAA-certified flight instructors operating outside the United States.

6. Sources of data on the number or percentage of flights schools that only train U.S. citizens. This information can be used to streamline program implementation and validate cost estimates for the program.

TSA encourages submission of any other data or information available we should consider in our review of the regulation. This information is necessary for TSA to identify areas for potential deregulation and cost savings, limit vulnerabilities from insider threats, and estimate the costs of implementing the final rule.

For more background on the regulation and its requirements, please see the IFR, which is available in the docket. As previously noted, TSA evaluated all 332 public comments received on the IFR, both before and after the comment period closed on October 20, 2004. It is not necessary for commenters to resubmit issues previously raised, but TSA believes our rulemaking would benefit from reopening the comment period to obtain updated information and perspectives from regulated entities on the impact of the regulation.

Dated: May 13, 2018.

**David P. Pekoske,**  
*Administrator.*

[FR Doc. 2018–10637 Filed 5–17–18; 8:45 am]

**BILLING CODE 9110–05–P**

<sup>3</sup> *See, e.g.*, the following documents at Regulations.gov: “U.S. DHS/TSA HQ—Notice, Applicability of 49 CFR part 1552 to certain types of aircraft” (Oct. 29, 2004) (TSA–2004–19147–0324) and “U.S. DHS/TSA HQ—Response—Interpretation of “Flight Training” for Aircraft with an MTOW of 12,500 Pounds or Less and Exemption . . . .” (January 5, 2005) (TSA–2004–19147–0337).

<sup>4</sup> *See* fee notice published in the **Federal Register** at 74 FR 16880 (April 13, 2009).



# Proposed Rules

Federal Register

Vol. 83, No. 97

Friday, May 18, 2018

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2018-0440; Product Identifier 2016-SW-077-AD]

RIN 2120-AA64

#### Airworthiness Directives; Scotts-Bell 47 Inc. (Type Certificate Previously Held by Bell Helicopter Textron Inc.)

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Scotts-Bell 47 Inc. (Scotts-Bell) Model 47, 47B, 47B3, 47D, 47D1, 47E, 47G, 47G-2, 47G-2A, 47G-2A-1, 47G-3, 47G-3B, 47G-3B-1, 47G-3B-2, 47G-3B-2A, 47G-4, 47G-4A, 47G-5, 47G-5A, 47H-1, 47J, 47J-2, 47J-2A, and 47K helicopters. This proposed AD would require repetitively inspecting and adjusting the throttle linkage. This proposed AD is prompted by reports of the throttle linkage separating from the engine carburetor shaft, which could result in loss of throttle control. The actions in this proposed AD are intended to correct an unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by July 17, 2018.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0440; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Scott's-Bell 47, Inc., 100 Minnesota Ave, Le Sueur, MN 56058; telephone (507) 665-0035; email [info@scottsbell47.com](mailto:info@scottsbell47.com). You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

**FOR FURTHER INFORMATION CONTACT:** Shawn Malekpour, Aviation Safety Engineer, Chicago ACO Branch, Compliance & Airworthiness Division, FAA, 2300 East Devon Ave., Des Plaines, Illinois 60018; telephone (847) 294-7834; email [shawn.malekpour@faa.gov](mailto:shawn.malekpour@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

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

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

#### Discussion

We propose to adopt a new AD for Scotts-Bell Model 47, 47B, 47B3, 47D, 47D1, 47E, 47G, 47G-2, 47G-2A, 47G-2A-1, 47G-3, 47G-3B, 47G-3B-1, 47G-3B-2, 47G-3B-2A, 47G-4, 47G-4A, 47G-5, 47G-5A, 47H-1, 47J, 47J-2, 47J-2A, and 47K helicopters with a Marvel Schebler Model MA-3, MA-3A, MA3-PA, MA-3SPA, MA4-SPA, MA4-5, MA4-5AA, MA-5, MA-5AA, MA-6AA, or HA-6 carburetor installed. This proposed AD would require an initial inspection and repetitive daily check of the throttle linkage-carburetor attachment for broken or missing safety wire and for fracturing of the anti-sabotage lacquer. This proposed AD would also require adjusting and securing the throttle linkage within 100 hours time-in-service.

This proposed AD is prompted by several reports of the throttle linkage separating from the engine carburetor shaft, which resulted in loss of throttle control. An investigation determined that missing or improperly installed safety wire may fail to prevent an excessively worn splined carburetor shaft from separating from the throttle linkage. The investigation further determined that the unusual routing of the safety wire in this design along with a lack of clarity in the maintenance instructions may have contributed to nine other incidents. To address this unsafe condition, Scotts-Bell has developed an inspection to determine whether the safety wire is correctly applied and has revised the maintenance instructions with updated procedures for safety wire installation.

While our data indicates Model 47, 47B, 47B3, 47D, 47E, and 47K helicopters are not likely to have the affected carburetors installed, we have included those models in this proposed AD to ensure we fully address the unsafe condition.

#### FAA's Determination

We are proposing this AD because we evaluated all known relevant

information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

#### Related Service Information Under 14 CFR Part 51

We reviewed Scott's-Bell 47, Inc. Alert Service Bulletin 47-15-27 R1, dated November 1, 2016 (ASB), for Model 47, 47B, 47B3, 47D, 47D1, 47E, 47G, 47G-2, 47G-2A, 47G-2A-1, 47G-3, 47G-3B, 47G-3B-1, 47G-3B-2, 47G-3B-2A, 47G-4, 47G-4A, 47G-5, 47G-5A, 47H-1, 47J, 47J-2, 47J-2A, and 47K helicopters. The ASB specifies, prior to the next flight, inspecting the engine throttle linkage and carburetor shaft to determine if the safety wire is correctly applied. The ASB also specifies adjusting and securing the throttle linkage at the next 100-hour or annual inspection, but no later than 90 days after release of the ASB, and then any time the throttle linkage connection is disassembled.

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.

#### Other Related Service Information

We also reviewed Scott's-Bell 47, Inc. Model 47D-1, 47G, & 47G-2 Maintenance and Overhaul Instructions Temporary Revision (M&O TR) 47-16-2, Models 47G-2A & 47G-2A-1 M&O TR 47-16-3, Model 47G-3 M&O TR 47-16-3, Models 47G-3B & 47G-3B-1 M&O TR 47-16-3, Model 47G-3B-2 M&O TR 47-16-3, Model 47G-3B-2A M&O TR 47-16-3, Models 47G-4 & 47G-4A M&O TR 47-16-3, Model 47G-5 M&O TR 47-16-3, Model 47G-5A M&O TR 47-16-3, Model 47H-1 M&O TR 47-16-2, Model 47J M&O TR 47-16-2, and Models 47J-2 & 47J-2A M&O TR 47-16-3, each dated November 1, 2016. Each M&O TR describes procedures for inspecting and safety wiring the throttle control linkage.

Scott's Bell did not issue temporary revisions to the M&O procedures for Model 47, 47B, 47B3, 47D, 47E, and 47K helicopters, as there are limited manufacturing and maintenance records available for these models, and as it is unlikely these models have an affected model carburetor installed.

#### Proposed AD Requirements

This proposed AD would require the following:

- Before further flight, inspecting the throttle linkage connection at the engine carburetor for condition, security, and to determine if the safety wire is in place

and captures the throttle linkage and the carburetor stop arm.

- Before the first flight of each day, visually checking the throttle-linkage to carburetor attachment for installed safety wire and for intact anti-sabotage lacquer. An owner/operator (pilot) may perform the visual check required by paragraph (e)(2)(i) of the proposed AD and must enter compliance with that paragraph into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1) through (4) and 91.417(a)(2)(v). A pilot may perform this check because it involves only a visual check of the throttle-linkage to carburetor attachment and can be performed equally well by a pilot or a mechanic. This check is an exception to our standard maintenance regulations.

- Within 100 hours time-in-service or at the next annual or 100-hour inspection, whichever occurs first, and thereafter at each annual or 100-hour inspection, whichever occurs first, adjusting, safety wiring, and applying anti-sabotage lacquer to the throttle linkage. For Model 47, 47B, 47B3, 47D, 47E, and 47K helicopters, adjusting and safety wiring the throttle linkage would be required to be done by using a method approved by the Manager, Chicago ACO Branch. For all other helicopters, these actions would be accomplished as specified in the applicable M&O TR.

#### Costs of Compliance

We estimate that this proposed AD would affect 698 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this proposed AD. Conducting a pre-flight check of the throttle linkage connection by the pilot would require about 5 minutes, therefore the cost per helicopter would be minimal. At an average labor rate of \$85, inspecting the engine throttle linkage would require about 0.5 work-hour, for a cost of \$43 per helicopter and \$30,014 for the U.S. fleet. Adjusting and securing the throttle linkage would require about 3 work-hours and required parts would be \$12 for a cost of \$267 per helicopter and \$186,366 for the U.S. fleet per occurrence.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

#### List of Subjects in 14 CFR Part 39

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

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Scotts-Bell 47 Inc. (Type Certificate Previously Held by Bell Helicopter Textron Inc.):** Docket No. FAA-2018-0440; Product Identifier 2016-SW-077-AD.

**(a) Applicability**

This AD applies to Scotts-Bell 47 Inc. (Scotts-Bell) Model 47, 47B, 47B3, 47D, 47D1, 47E, 47G, 47G-2, 47G-2A, 47G-2A-1, 47G-3, 47G-3B, 47G-3B-1, 47G-3B-2, 47G-3B-2A, 47G-4, 47G-4A, 47G-5, 47G-5A, 47H-1, 47J, 47J-2, 47J-2A, and 47K helicopters, certificated in any category, with a Marvel Schebler Model MA-3, MA-3A, MA3-PA, MA-3SPA, MA4-SPA, MA4-5, MA4-5AA, MA-5, MA-5AA, MA-6AA, or HA-6 carburetor installed.

**(b) Unsafe Condition**

This AD defines the unsafe condition as separation of the throttle linkage from an engine carburetor shaft. This condition could result in loss of throttle control and subsequent forced landing of the helicopter.

**(c) Comments Due Date**

We must receive comments by July 17, 2018.

**(d) Compliance**

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

**(e) Required Actions**

(1) Before further flight, inspect the throttle linkage connection at the engine carburetor for security; Determine whether the throttle linkage is securely attached to the serrated shaft of the carburetor, inspect the throttle linkage clamp screw for broken or missing safety wire, and determine whether safety wire captures the throttle linkage and carburetor stop arm.

(i) If there is any looseness, axial movement, or movement between the serrated shaft and the throttle linkage; if a throttle linkage clamp screw is loose; if any safety wire is broken or missing; or if safety wire does not capture the throttle linkage and carburetor stop arm, before further flight, adjust and secure the throttle linkage as required by paragraph (e)(3)(i) and (e)(3)(ii) of this AD.

(ii) If there is no looseness, axial movement, or movement between the serrated shaft and the throttle linkage; no throttle linkage clamp screws are loose; no safety wire is broken or missing; and safety wire captures the throttle linkage and carburetor stop arm, before further flight, apply anti-sabotage lacquer (Torque-Seal or equivalent) between the throttle arm and the serrated shaft and between the self-locking nut and the throttle arm.

(2) Before the first flight of each day:

(i) Check the throttle linkage-carburetor attachment for broken or missing safety wire and for missing or fractured anti-sabotage lacquer. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9

(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(ii) If the safety wire is missing or broken or if the anti-sabotage lacquer is missing or fractured, before further flight, adjust and secure the throttle linkage as described in paragraph (e)(3)(i) and (e)(3)(ii) of this AD.

(3) Within 100 hours time-in-service or at the next annual or 100-hour inspection, whichever occurs first, and thereafter at each annual or 100-hour inspection, whichever occurs first:

(i) Adjust and secure the throttle linkage as specified in Appendix 1 of the Scotts-Bell Maintenance and Overhaul Instructions Temporary Revision that is applicable to your helicopter, as listed in Table 1 of Scotts-Bell Alert Service Bulletin 47-15-27 R1, dated November 1, 2016.

(ii) For Model 47, 47B, 47B3, 47D, 47E, and 47K helicopters, adjust and secure the throttle linkage using a method approved by the Manager, Chicago ACO Branch. For a repair method to be approved as required by this AD, the Manager's approval letter must specifically refer to this AD.

**(f) Special Flight Permits**

Special flight permits are prohibited.

**(g) Alternative Methods of Compliance**

(1) The Manager, Chicago ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Shawn Malekpour, Aviation Safety Engineer, Chicago ACO Branch, Compliance & Airworthiness Division, FAA, 2300 East Devon Ave., Des Plaines, Illinois 60018; telephone (847) 294-7834; email [shawn.malekpour@faa.gov](mailto:shawn.malekpour@faa.gov).

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

**(h) Additional Information**

For service information identified in this AD, contact Scott's-Bell 47, Inc., 100 Minnesota Ave., Le Sueur, MN 56058; telephone (507) 665-0035; email [info@scottsbell47.com](mailto:info@scottsbell47.com). You may review a copy of this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 7322 Engine Controls.

Issued in Fort Worth, Texas, on May 9, 2018.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2018-10585 Filed 5-17-18; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2018-0373]

RIN 1625-AA00

**Safety Zone for Marine Events, Delaware River; Philadelphia, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the waters of the Delaware River in Philadelphia, Pennsylvania. The regulation would restrict vessel traffic on a portion of the Delaware River from operating during a fireworks display on June 13, 2018, from 9:00 p.m. until 10:00 p.m. During the enforcement periods, no vessel would be allowed to enter in or transit this regulated area without approval from the Captain of the Port or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 4, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG-2018-0373 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email MST1 Edmund Ofalt, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone (215) 271-4889, email [Edmund.J.Ofalt@uscg.mil](mailto:Edmund.J.Ofalt@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

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

**II. Background, Purpose, and Legal Basis**

On April 14, 2018, the Delaware River Waterfront Corporation notified the Coast Guard that it will be conducting a fireworks display from 9:00 p.m. to 10:00 p.m. on June 13, 2018. The

fireworks will be launched from a barge in the Delaware River off Penn's Landing in Philadelphia. Potential hazards from fireworks display include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Delaware Bay (COTP) has determined that these potential hazards pose a safety concern.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

### III. Discussion of Proposed Rule

The Captain of the Port, Delaware Bay, proposes the establishment of a safety zone on a portion of the Delaware River, Philadelphia, PA, to ensure the safety of persons, vessels and the public during the event. The safety zone includes all navigable waters of the Delaware River, adjacent to Penn's Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline commencing at latitude 39°56'31.2" N, longitude 075°08'28.1" W; thence westward to latitude 39°56'29.1" N, longitude 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge where it crosses the Delaware River. The safety zone will be effective and enforced from 9:00 p.m. to 10:00 p.m. on June 13, 2018. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

### IV. Regulatory Analyses

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

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of

Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic will be unable to transit the safety zone for the duration of the fireworks display. However, this safety zone will only impact a small designated area of the Delaware River, in Philadelphia, PA, for one hour. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 regarding the safety zone. Vessel operators may request permission to enter the zone before and after the fireworks display while the rule is in effect.

#### B. Impact on Small Entities

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

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

This rule will affect the following entities, some of which may be small entities. The owners or operators of vessels intending to anchor or transit along a portion of Delaware River in the vicinity of Philadelphia, from 9:00 p.m. until 10:00 p.m. on June 13, 2018.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

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

#### D. Federalism and Indian Tribal Governments

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

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

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule

involves a safety zone lasting for one hour that would prohibit entry portions of the Delaware River to promote public and maritime safety during a fireworks display. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

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

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 165

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

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

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

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

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

- 2. Add § 165.T05-0373 to read as follows:

#### § 165.T05-0373 Safety Zone; Delaware River; Philadelphia, PA.

(a) *Location.* The following area is a safety zone: all navigable waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline commencing at latitude 39°56'31.2" N, longitude 075°08'28.1" W; thence westward to latitude 39°56'29.1" N, longitude 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge where it crosses the Delaware River.

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

#### (c) Regulations.

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To request permission to enter the safety zone, contact the COTP or the COTP's representative on marine band radio VHF-FM channel 16 (156.8 MHz) or 215-271-4807. All persons and vessels in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced on from 9:00 p.m. to 10:00 p.m. on June 13, 2018.

Dated: May 15, 2018.

**Scott E. Anderson,**

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

[FR Doc. 2018-10661 Filed 5-17-18; 8:45 am]

**BILLING CODE 9110-04-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R06-OAR-2017-0052; FRL-9977-89-Region 6]

#### Approval and Promulgation of Implementation Plans; Oklahoma; Interstate Transport Requirements for the 2012 PM<sub>2.5</sub> NAAQS

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is proposing to approve portions of the Oklahoma State Implementation Plan (SIP) submittal addressing the CAA requirement that SIPs address the potential for interstate transport of air pollution to significantly contribute to nonattainment or interfere with maintenance of the 2012 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) in other states. EPA is proposing to determine that emissions from Oklahoma sources do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with regard to the 2012 PM<sub>2.5</sub> NAAQS.

**DATES:** Written comments must be received on or before June 18, 2018.

**ADDRESSES:** Submit your comments, identified by Docket Number EPA-R06-OAR-2017-0052, at <http://www.regulations.gov> or via email to [fuirst.sherry@epa.gov](mailto:fuirst.sherry@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary

submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, CBI).

**FOR FURTHER INFORMATION CONTACT:** Sherry Fuerst, 214-665-6454, [fuerst.sherry@epa.gov](mailto:fuerst.sherry@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214-665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## I. Background

### A. The PM<sub>2.5</sub> NAAQS and Interstate Transport of Air Pollution

Under section 109 of the CAA, we establish NAAQS to protect human health and public welfare. In 2012, we established a new annual NAAQS for PM<sub>2.5</sub> of 12 micrograms per cubic meter (µg/m<sup>3</sup>), (78 FR 3085, January 15, 2013). The CAA requires states to submit, within three years after promulgation of a new or revised standard, SIPs meeting the applicable “infrastructure” elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i), requires SIPs to contain provisions to prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. There are four sub-elements within CAA section 110(a)(2)(D)(i). This action reviews how the first two sub-elements, contained in CAA section 110(a)(2)(D)(i)(I), were addressed in an infrastructure SIP submission from Oklahoma for the 2012 PM<sub>2.5</sub> NAAQS. These sub-elements require that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity in one state that will “contribute significantly to nonattainment” or “interfere with maintenance” of the applicable air quality standard in any other state.

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to PM<sub>2.5</sub> in several past regulatory actions. In 2011, we promulgated the Cross-State Air Pollution Rule (CSAPR, 76 FR 48208, August 8, 2011) in order to address the obligations of states—and of the EPA when states have not met their obligations—under CAA section 110(a)(2)(D)(i)(I) to prohibit air pollution contributing significantly to nonattainment in, or interfering with maintenance by, any other state with regard to several NAAQS, including the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS.<sup>1</sup> In that rule, we considered states linked to downwind nonattainment or maintenance receptors<sup>2</sup> if they were projected by air quality modeling to contribute more than the threshold amount (1% of the standard) of PM<sub>2.5</sub> pollution for the 1997 and 2006 PM<sub>2.5</sub> NAAQS (76 FR 48208, 48239–43). The EPA has not established a threshold amount for the 2012 PM<sub>2.5</sub> NAAQS. In 2016 we provided an informational memorandum (the memo) about the steps states should follow as they develop and review SIPs that address this provision of the CAA for the 2012 PM<sub>2.5</sub> NAAQS.<sup>3</sup>

### B. Oklahoma SIP Submittal Pertaining to the 2012 PM<sub>2.5</sub> NAAQS and Interstate Transport of Air Pollution

On December 19, 2016, Oklahoma submitted a SIP revision to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS. In the submittal Oklahoma used a weight of evidence analysis to assess interstate transport of Oklahoma emissions to locations projected in the 2016 EPA memo as receptors of concern. In their analysis Oklahoma concluded that emissions from Oklahoma did not significantly contribute to interference with attainment or maintenance of the 1997 annual PM<sub>2.5</sub> NAAQS or the 2006 24-hour PM<sub>2.5</sub> NAAQS in another state. A copy of the Oklahoma SIP submittal is available in the electronic docket for this action.

We propose to approve the December 19, 2016 SIP revision submittal intended to ensure that the SIP met the

<sup>1</sup> Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48207 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and 40 CFR part 97).

<sup>2</sup> Nonattainment or maintenance receptors are monitors projected to have air quality problems.

<sup>3</sup> 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) March 17, 2016 from Stephen D. Page.

requirements of the CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS.

## II. The EPA’s Evaluation

As stated above, Section 110(a)(2)(D)(i) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state that will (I) contribute significantly to nonattainment, or interfere with maintenance of the NAAQs in another state, and (II) interfering with measures required to prevent significant deterioration of air quality, or to protective visibility in another state. This action address only CAA section 110(a)(2)(D)(i)(I).

The 2016 EPA memo outlined the four-step framework EPA has historically used to evaluate interstate transport under section 110(a)(2)(D)(i)(I), including the EPA’s CSAPR.

(1) Identification of potential downwind nonattainment and maintenance receptors;

(2) Identification of upwind states contributing to downwind nonattainment and maintenance receptors;

(3) For states identified as contributing to downwind air quality problem, identification of upwind emissions reductions necessary to prevent upwind states from significantly contributing to nonattainment or interfering with maintenance of receptors, and;

(4) For states that are found to have emissions that significantly contribute to non-attainment or interfere with maintenance downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures.

We will be following the framework outlined in the memo for our evaluation. Based on this approach, the potential receptors are outlined in Table 1 in the memo. Most of the potential receptors are in California, located in the San Joaquin Valley or South Coast nonattainment areas. However, there is also one potential receptor in Shoshone County, Idaho, and one potential receptor in Allegheny County, Pennsylvania.

The memo did note that because of data quality problems nonattainment and maintenance projections were not completed for all or portions of Florida, Illinois, Idaho, Tennessee and Kentucky. After issuance of the memo, data quality problems were resolved for Idaho, Tennessee, Kentucky and most of Florida, identifying no additional potential receptors, with those areas

having design values (DV) below the 2012 PM<sub>2.5</sub> NAAQS and expected to maintain the NAAQS due to downward emission trends for NO<sub>x</sub> and SO<sub>2</sub> ([www.epa.gov/air-trends/air-quality-design-values](http://www.epa.gov/air-trends/air-quality-design-values) and [www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data](http://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data)). Florida certified its 2017 PM<sub>2.5</sub> ambient air data for the counties in Florida with 2009–2013 data gaps in March, 2018 allowing us to develop 2015–2017 preliminary design values. The highest preliminary design value in Florida is 8 µg/m<sup>3</sup> and the highest monitored value in Florida is 7.5 µg/m<sup>3</sup>, well below the NAAQS. For these reasons, we find that none of the counties in Florida with monitoring gaps between 2009–2013 should be considered either nonattainment or maintenance receptors for the 2012 PM<sub>2.5</sub> NAAQS. Therefore, as of April, 2018, only Illinois still has data quality issues preventing projections of nonattainment and maintenance receptors. Illinois will be evaluated to determine if they have potential nonattainment or maintenance receptors for 2012 PM<sub>2.5</sub> NAAQS.

Therefore, for “Step 1” of this evaluation, the areas identified as “potential downwind nonattainment and maintenance receptors” are:

- Seventeen potential receptors in California, located in the San Joaquin Valley or South Coast nonattainment areas;
  - Shoshone County, Idaho;
  - Allegheny County, Pennsylvania;
- and,
- All of Illinois

As stated above, “Step 2” is the identification of states contributing to downwind nonattainment and maintenance receptors, such that further analysis is required to identify necessary upwind reductions. For this step, we will be specifically determining if Oklahoma emissions contribute to downwind nonattainment and maintenance receptors.

Each of the potential receptors is discussed below, with a more in depth discussion provided in the Technical Support Document (TSD) for this notice. For additional information, links to the documents relied upon for this analysis can be found throughout the document, more information is available in the TSD and the documents can be found in the docket for this action.

#### California

As described in our TSD, our analysis shows that Oklahoma’s PM<sub>2.5</sub> emissions and/or PM<sub>2.5</sub> precursors do not significantly impact the California potential receptors identified in the memo. In our analysis we found

specifically that the majority of the emissions impacting PM<sub>2.5</sub> levels in California are directly emitted PM<sub>2.5</sub> and/or PM<sub>2.5</sub> precursors from within the state, and that meteorological and topographic conditions serve as barriers to transport from Oklahoma. We note that air quality designations are not relevant to our evaluation of interstate transport, however, the analysis developed for the 2012 annual PM<sub>2.5</sub> NAAQS designations process provides an in depth evaluation of factors critical in evaluating transport of PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitors, which all support the conclusion that Oklahoma’s PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors do not significantly contribute to nonattainment or interfere with maintenance of the California potential receptors. Furthermore, Oklahoma is more than 800 miles to the east and generally downwind of the California receptors.<sup>4</sup>

For these reasons, we propose to find that Oklahoma does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 PM<sub>2.5</sub> NAAQS for California.

#### Shoshone County, Idaho

As discussed in the TSD, our analysis shows that Oklahoma’s PM<sub>2.5</sub> emissions and/or PM<sub>2.5</sub> precursors do not significantly impact the Idaho potential receptor identified in the memo. In our analysis, we found specifically that the majority of the emissions impacting PM<sub>2.5</sub> levels, came during the winter time and could be attributed to residential wood combustion. We note that air quality designations are not relevant to our evaluation of interstate transport; however, the analysis developed for the 2012 annual PM<sub>2.5</sub> NAAQS designations process provide an in depth evaluation of factors critical in evaluating transport of PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors, including evaluation of local emissions, wind speed and direction, topographical and meteorological conditions and seasonal variations recorded at the monitor, which all support the conclusion that Oklahoma PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors do not significantly contribute to nonattainment nor interfere with maintenance of the Idaho potential

receptor.<sup>5</sup> Furthermore, Oklahoma is more than 1,000 miles to the southeast and downwind of this receptor.

For these reasons, we propose to find that Oklahoma does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 PM<sub>2.5</sub> NAAQS for Shoshone, Idaho.

#### Allegheny County, Pennsylvania

As discussed in the TSD, our analysis shows that Oklahoma’s PM<sub>2.5</sub> emissions and/or PM<sub>2.5</sub> precursors do not significantly impact the Allegheny County, Pennsylvania (Liberty monitor) potential receptor identified in the memo. In our analysis, we found that there were strong local influences throughout Allegheny County and contributions from nearby states that contributed to its nonattainment for both the 1997 and 2006 PM<sub>2.5</sub> NAAQS. Contributors to the Liberty monitor in Allegheny County, Pennsylvania in recent years, have taken steps to improve air quality which will likely bring the monitor into compliance with the 2012 PM<sub>2.5</sub> annual NAAQS by the 2021 attainment date.

Another compelling fact is that in previous modeling, Oklahoma emissions were not linked to Allegheny County.<sup>6</sup>

For these reasons, we propose to find that Oklahoma does not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012 PM<sub>2.5</sub> NAAQS for Allegheny County, Pennsylvania.

#### Illinois

Due to ambient monitoring data gaps in the 2009–2013 data that should have been used to identify potential PM<sub>2.5</sub> nonattainment and maintenance receptors in Illinois and the modeling analysis of potential receptors could not be completed for the state, therefore the entire state is considered unclassifiable. Illinois did have a nonattainment receptor identified through the CSAPR modeling analysis for the 1997 PM<sub>2.5</sub> NAAQS. The receptor was in Madison, Illinois, located near St. Louis, Missouri.

As stated above, Oklahoma was included in the CSAPR modeling analysis for the 1997 PM<sub>2.5</sub> NAAQS. The modeling did not show a linkage for nonattainment or maintenance between Oklahoma and Illinois. Recent DV for the monitors in Madison, Illinois have shown downward trends. There are

<sup>4</sup> California: Imperial County, Los Angeles-South Coast Air Basin, Plumas County, San Joaquin Valley Area Designations for the 2012 Primary Annual PM<sub>2.5</sub> National Ambient Air Quality Standard Technical Support Document <https://www.regulations.gov/document?D=EPA-HQ-OAR-2012-0918-0330>.

<sup>5</sup> Idaho: West Silver Valley Nonattainment Area-2012 Primary Annual PM<sub>2.5</sub> National Ambient Air Quality Standard Technical Support Document. Prepared by EPA Region 10.

<sup>6</sup> Air Quality Modeling for 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48207, August 8, 2011).



three active monitors in Madison. The DVs for the monitors are shown in Table 1 below.

TABLE 1—ANNUAL STANDARD 3-YEAR AVERAGES ( $\mu\text{g}/\text{M}^3$ ) FOR MADISON, ILLINOIS MONITORS

Monitor No.	2012–2014	2013–2015	2014–2016
171191007 .....	12.9	11.6	10.8
171192009 .....	10.4	9.7	9.4
171193007 .....	12.5	10.8	10.1

For these reasons, we propose that Oklahoma will not significantly contribute to nonattainment, nor will it interfere with maintenance of the 2012  $\text{PM}_{2.5}$  NAAQS in Illinois.

Since we determined that Oklahoma's SIP includes provisions prohibiting any source or other type of emissions activity from contributing significantly to nonattainment in, or interfering with maintenance of the NAAQS, in another state, steps 3 and 4 of this evaluation are not necessary.

In conclusion, based on our review of the potential receptors presented in the March 17, 2016 informational memo, an evaluation identifying likely emission sources affecting these potential receptors, and the 2014 base case modeling in CSAPR final rule, we propose to determine that emissions from Oklahoma sources will not contribute significantly to nonattainment in, nor interfere with maintenance by, any other state with regard to the 2012 annual  $\text{PM}_{2.5}$  NAAQS.

### III. Proposed Action

For the reasons discussed above and in the TSD, we are proposing to approve the December 19, 2016 Oklahoma SIP submittal concluding that emissions from Oklahoma will not significantly contribute to nonattainment or interfere with maintenance of the 2012  $\text{PM}_{2.5}$  NAAQS in any other state.

### IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under

Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 proposed 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, Particulate matter.

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

Dated: May 14, 2018.

**Anne Idsal,**

*Regional Administrator, Region 6.*

[FR Doc. 2018–10599 Filed 5–17–18; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2017–0006; FRL–9976–87]

### Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

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

**ACTION:** Notice of filing of petitions and request for comment.

**SUMMARY:** This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before June 20, 2018.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or



delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

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

**FOR FURTHER INFORMATION CONTACT:**

Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305-7090, email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov); or Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305-7090, email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov). The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or

CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

**II. What action is the Agency taking?**

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each

rulemaking. The docket for each of the petitions is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

*Amended Tolerances for Inerts*

PP IN-11085. (EPA-HQ-OPP-2018-0150). Sci Reg., Inc. 12733 Director's Loop, Woodbridge, VA 22191 on behalf of Bayer CropScience Biologics GmbH, requests to amend an exemption from the requirement of a tolerance in 40 CFR 180.920 for residues of the titanium dioxide (CAS Reg. No. 13463-67-7) when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

*Amended Tolerances for Non-Inerts*

PP 7F8650. (EPA-HQ-OPP-2018-0030). Makhteshim Agan of North America (d/b/a ADAMA, 3120 Highlands Blvd., Suite 100, Raleigh, NC 27604), requests to amend the tolerances in 40 CFR 180.680 for residues of the nematocide, fluensulfone and its metabolite BSA expressed as fluensulfone equivalents, in or on Berry, low growing, subgroup 13-07G at 0.5 parts per million (ppm); Brassica, head and stem, subgroup 5A at 1.5 ppm; Brassica, leafy greens, subgroup 5B at 20 ppm; Potato, chips at 2 (ppm); Potato, granules/flakes at 2 ppm; Tomato, paste at 1.5ppm; Vegetables, cucurbits, group 9 at 0.7 ppm; Vegetables, fruiting, group 8-10 at 0.7 ppm; Vegetables, leafy, except Brassica, group 4 at 4 ppm; Vegetables, leaves of root and tuber, group 2, except sugar beet at 50 ppm; Vegetables, root, except sugar beet, subgroup 1B at 4 ppm; and Vegetables, tuberous and corm, subgroup 1C at 0.8 ppm. The LC-MS/MS methods are used to measure and evaluate the chemical fluensulfone plus its metabolite 3,4,4-trifluoro-but-3-ene-1-sulfonic acid (BSA) expressed as fluensulfone equivalents. Contact: RD

*New Tolerance Exemptions for Inerts (Except PIPS)*

1. PP IN-11097. (EPA-HQ-OPP-2018-0151). Nalco Water, an Ecolab Company, 1601 W Diehl Road,

Haperville, IL 60563, requests to establish an exemption from the requirement of a tolerance for residues of phosphonic acid, [[phosphonomethyl]imino]bis[2,1-ethanediylnitrilobis(methylene)]tetrakis-, sodium salt (CAS Reg. No. 22042-96-2) and phosphonic acid, [[phosphonomethyl]imino]bis[2,1-ethanediylnitrilobis(methylene)]tetrakis-, disodium salt (CAS Reg. No. 94987-75-4) when used as inert ingredients in antimicrobial pesticide formulations (food-contact surface sanitizing solutions) under 40 CFR 180.940(a) with an end use concentration not to exceed 10,000 parts per million (ppm). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

2. PP IN-11101. (EPA-HQ-OPP-2018-0163). Fine Agrochemicals Ltd., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192, requests to establish an exemption from the requirement of a tolerance for residues of glycine betaine (CAS Reg. No. 107-43-7) when used as an inert ingredient in pesticide formulations applied to growing crops only under 40 CFR 180.920. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

3. PP IN-11102. (EPA-HQ-OPP-2018-0152). Nutrenare-AG, Inc., 4740 N. Interstate 35 E, Waxahachie, Texas 75165, requests to establish an exemption from the requirement of a tolerance for residues of fulvic acid (CAS Reg. No. 479-66-3) when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

4. PP IN-11104. (EPA-HQ-OPP-2018-0156). Spring Trading Company on behalf of Evonik Corporation, P.O. Box 34628, Richmond, VA 23234, requests to establish an exemption from the requirement of a tolerance for residues of butoxypolypropylene glycol (CAS Reg. No. 9003-13-8); oxirane, 2-methyl-, polymer with oxirane, mono-2-propen-1-yl ether (CAS Reg. No. 9041-33-2); poly(oxy-1,2-ethanediy),  $\alpha$ -acetyl- $\omega$ -(2-propen-1-yloxy)- (CAS Reg. No. 27252-87-5); and poly(oxy-1,2-ethanediy),  $\alpha$ -acetyl- $\omega$ -(2-propen-1-yloxy)- (CAS Reg. No. 27252-80-8) when used as inert ingredients in pesticide formulations applied to

growing crops and raw agricultural commodities after harvest under 40 CFR 180.910 and applied to animals under 40 CFR 180.930. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

5. PP IN-11111. (EPA-HQ-OPP-2018-0058). Lamberti USA, Incorporated, P.O. Box 1000, Hungerford TX 77448, requests to establish an exemption from the requirement of a tolerance for residues of 2-methyl-2-[(1-oxo-2-propenyl)amino]-1-propanesulfonic acid monosodium salt polymer with 2-propenoic acid, 2-methyl-, C12-16 alkyl esters (CAS Reg. No. 2115702-24-2) with a minimum number average molecular weight (in amu) of 10,000 when used as an inert ingredient in pesticide formulations under 40 CFR 180.1960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

6. PP IN-11113. (EPA-HQ-OPP-2018-0157). Ecolab Inc., 655 Lone Oak Dr., Egan, MN 55121, requests to establish an exemption from the requirement of a tolerance for residues of lactic acid (CAS Reg. No. 50-21-5) when used as an inert ingredient in antimicrobial pesticide formulations (food-contact surface sanitizing solutions) under 40 CFR 180.940(a) with an end use concentration not to exceed 10,000 parts per million (ppm). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD

#### *New Tolerance Exemptions for Non-Inerts (Except PIPS)*

1. PP 7F8620. (EPA-HQ-OPP-2014-0560). Andermatt Biocontrol AG, Stahlermatten 6, CH-6146 Grossdietwil, Switzerland (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide *Bacillus amyloliquefaciens subspecies plantarum strain FZB42* in or on all food commodities. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance for residues of *Bacillus amyloliquefaciens subspecies plantarum strain FZB42* is being requested. Contact: BPPD.

2. PP 7F8628. (EPA-HQ-OPP-2018-0046). Bi-PA nv, Technologielaan 7, B-1840 Londerzeel, Belgium (c/o SciReg, Inc., 12733 Director's Loop,

Woodbridge, VA 22192), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide *Trichoderma atroviride* strain SC1 in or on all agricultural commodities. The petitioner believes no analytical method is needed because it is applying for an exemption from the requirement of a tolerance and, accordingly, believes that the requirement for an analytical method is not applicable. Contact: BPPD.

3. PP 8F8663. (EPA-HQ-OPP-2018-0158). Verdesian Life Sciences U.S., LLC, 1001 Winstead Dr., Suite 480, Cary, NC 27513, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the plant regulator (2S)-5-Oxopyrrolidine-2-carboxylic Acid (L-PCA) in or on agricultural crops. The petitioner believes no analytical method is needed because the chemical is of low toxicity and a tolerance exemption is being proposed. Contact: BPPD.

#### *New Tolerances for Non-Inerts*

PP 7F8612. EPA-HQ-OPP-2018-0002. BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709-3528, requests to establish tolerance in 40 CFR part 180 for residues of the fungicide mefenfluproconazole (BAS 750 F); 2-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-1-(1H-1,2,4-triazole-1-yl)propan-2-ol] in or on the following raw agricultural commodities: Almond, hulls at 4 parts per million (ppm); barley, hay at 15 ppm; barley, straw at 30 ppm; cattle, fat at 0.3 ppm; cattle, kidney at 0.2 ppm; cattle, liver at 0.5 ppm; cattle, meat at 0.09 ppm; cattle, muscle at 0.04 ppm; cereal grains crop group 15, except wheat and corn at 3 ppm; cherry subgroup 12-12A at 4 ppm; citrus, oil at 30 ppm; corn, aspirated grain fractions at 0.3 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 9 ppm; corn, sweet, forage at 6 ppm; corn, sweet, grain at 0.02 ppm; corn, sweet, stover at 6 ppm; foliage of legume vegetables, except soybean, crop subgroup 7A at 20 ppm; forages of cereal grains, crop group 16 at 4 ppm; goat, fat at 0.3 ppm; goat, kidney at 0.2 ppm; goat, liver at 0.5 ppm; goat, meat at 0.09 ppm; goat, muscle at 0.04 ppm; grape, raisin at 4 ppm; grapefruit subgroup 10-10C at 1 ppm; horse, fat at 0.3 ppm; horse, kidney at 0.2 ppm; horse, liver at 0.5 ppm; horse, meat at 0.09 ppm; horse, muscle at 0.04 ppm; legume vegetables (succulent or dried) crop group 6, except lentil at 0.1 ppm; lemon/lime subgroup 10-10B at 2 ppm; lentil, dry at 2 ppm; milk at 0.03 ppm; orange subgroup 10-10A at 1 ppm;

peach subgroup 12–12B at 2 ppm; peanut at 0.01 ppm; peanut, hay at 30 ppm; plum prune, fresh at 4 ppm; plum subgroup 12–12C at 2 ppm; pome fruit crop group 11–10 at 1.5 ppm; poultry, eggs at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, liver at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, muscle at 0.01 ppm; poultry, skin at 0.01 ppm; rapeseed subgroup 20A at 1 ppm; rice, straw at 9 ppm; sheep, fat at 0.3 ppm; sheep, kidney at 0.2 ppm; sheep, liver at 0.5 ppm; sheep, meat at 0.09 ppm; sheep, muscle at 0.04 ppm; small fruit vine climbing, except fuzzy kiwifruit subgroup 13–07F at 1.5 ppm; sorghum, stover at 9 ppm; soybean, aspirated grain fractions at 5 ppm; soybean, forage at 4 ppm; soybean, hay at 15 ppm; soybean, seed at 0.3 ppm; sugar beet at 0.6 ppm; sugar beet, top at 9 ppm; swine, fat at 0.01 ppm; swine, liver at 0.01 ppm; swine, meat at 0.01 ppm; swine, skin at 0.01 ppm; tree nut crop group 14–12 at 0.06 ppm; tuberous and corm vegetables subgroup 1C at 0.02 ppm; wheat, aspirated grain fractions at 20 ppm; wheat, grain at 0.4 ppm; wheat, hay at 8 ppm; and wheat, straw at 30 ppm. The independently validated method (L0295/01, based on the QuEChERS method) was used for analyzing residues of BAS 750 F with appropriate sensitivity and selectivity in all crops and processed commodities. Two independently validated methods (L0272/01 and L0309/01) have been submitted for analyzing residues of BAS 750 F and its metabolite M750F022 (and conjugates) in animal commodities with appropriate sensitivity and selectivity, to measure and evaluate the chemical mefenflurazole. Contact: RD.

**Authority:** 21 U.S.C. 346a.

Dated: May 1, 2018.

**Delores Barber,**

*Director, Information Technology and Resources Management Division, Office of Pesticide Programs.*

[FR Doc. 2018–10692 Filed 5–17–18; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

RIN 0648–BH02

#### Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council submitted Amendment 116 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 116 would limit access to the Bering Sea and Aleutian Islands (BSAI) Trawl Limited Access Sector (TLAS) yellowfin sole directed fishery by vessels delivering to motherships. Amendment 116 would establish eligibility criteria based on historical participation in the fishery, issue endorsements to groundfish License Limitation Program (LLP) licenses that meet eligibility criteria, and authorize delivery of BSAI TLAS yellowfin sole to motherships by only those vessels with an assigned groundfish LLP license with a BSAI catcher vessel TLAS yellowfin sole directed fishery endorsement.

This action is necessary to provide benefits to historic participants, mitigate the risk that a “race for fish” could develop, and help to maintain the consistently low rates of halibut bycatch in the BSAI TLAS yellowfin sole directed fishery. Amendment 116 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the BSAI FMP, and other applicable law.

**DATES:** Comments must be received no later than July 17, 2018.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2017–0083, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/)

*#/docketDetail;D=NOAA-NMFS-2017-0083*, 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 99802–1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 116 and the Draft Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the “Analysis”) may be obtained from [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Bridget Mansfield, (907) 586–7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 116 to the FMP is available for public review and comment.

NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

Amendment 116 to the FMP would amend the species and gear endorsements on groundfish LLP licenses. The LLP was implemented under Amendments 39 and 41 to the

FMP, and NMFS published the final rule to implement these amendments on October 1, 1998 (63 FR 52642). The LLP limits access to the groundfish, crab, and scallop fisheries in the BSAI and the Gulf of Alaska (GOA), by requiring that persons hold and assign a license to each vessel that is used to fish in federally managed fisheries, with some limited exemptions. The LLP is intended to prevent unlimited entry into Federally managed fisheries and to limit the ability of a person to assign an LLP license derived from the historic landing activity of a vessel in one area, using a specific fishing gear or operational type, to be used in other areas, with other gears, or for other operational types in a manner that could expand fishing capacity. Licenses issued under the LLP authorize, through individual endorsements, fishing activities in specific fishing areas, gear types, and vessel operations as catcher vessels (CVs) or catcher/processors (CPs). Once issued, the components of the LLP license cannot be transferred independently.

Amendment 116 would implement a new groundfish LLP license endorsement to authorize a CV with trawl gear to deliver its catch to a mothership (a vessel that receives and processes catch from another vessel) in the BSAI TLAS yellowfin sole directed fishery. Vessels without this endorsement would not be authorized to deliver catch to motherships when participating in the BSAI TLAS yellowfin sole directed fishery. The Council determined, and NMFS agrees, that this action is an appropriate response to a sharp increase in CV participation delivering to motherships in the BSAI TLAS yellowfin sole directed fishery beginning in 2015. This increased effort has increased harvest pressure in this fully utilized fishery, such that the fishing season has been severely foreshortened over the past two years and has caused concern over the potential for increased halibut bycatch.

In June 2017, the Council adopted Amendment 116, which would limit access to the offshore BSAI TLAS yellowfin sole fishery by CVs and CPs acting as CVs that deliver BSAI TLAS yellowfin sole to motherships. If approved, Amendment 116 would amend the FMP to require a vessel be designated on a groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement in order to deliver its catch of yellowfin sole in the BSAI TLAS fishery to a mothership. A groundfish LLP license would receive

the endorsement if it is credited with a qualifying landing. A groundfish LLP license would be eligible to be credited with a qualifying landing if a vessel designated on it was used to make at least one legal trip target landing of BSAI TLAS yellowfin sole to a mothership in any one year from 2008 through 2015. Under Amendment 116, “trip target” would mean an amount of retained aggregate groundfish species that is greater than the retained amount of any other groundfish species for that trip. The Council recognized this eligibility criteria may qualify more groundfish LLP licenses than vessels with a qualifying landing, because some vessels with a qualifying landing may have been designated on more than one groundfish LLP license during the qualifying period. Therefore, if a vessel designated on more than one groundfish LLP license made a qualifying landing during the qualifying period, only those groundfish LLP licenses on which the vessel was designated when it made a legal trip target landing in a BSAI TLAS fishery would be eligible to be credited with a qualifying landing. In such cases, Amendment 116 would require the vessel owner to specify only one groundfish LLP license that would be credited with the qualifying landing(s).

Amendment 116 would amend four sections of the FMP. First, in Table ES–2 in the Executive Summary, row “License and Permits” would have a sentence added to read, “Trawl gear vessels engaged in directed fishing for BSAI TLAS yellowfin sole and delivering to a mothership must qualify for a BSAI TLAS yellowfin sole directed fishery endorsement.”

Second, under section 3.3.1 “License Limitation Program,” Amendment 116 would add a new subsection entitled “3.3.1.3 Species and Gear Endorsements for Vessels Using Trawl Gear.” This new subsection would state that a vessel engaged in directed fishing for yellowfin sole in the trawl limited access sector in the BSAI management area using trawl gear and operating as a catcher vessel delivering catch to a mothership must hold an area endorsement and general license with a trawl limited access sector yellowfin sole directed fishery endorsement.

Finally, a section would be added to Appendix A, summarizing the main provisions of Amendment 116, and the Table of Contents would be revised.

The proposed rule to implement proposed Amendments 116 provides the details of the eligibility criteria for a BSAI TLAS yellowfin sole directed

fishery endorsement to a groundfish LLP license, the process to establish eligibility of individual groundfish LLP licenses based on historical participation in the fishery, and issuance of the endorsements. The specific groundfish LLP licenses eligible for such an endorsement would be named in the proposed rule and in the regulations implementing the rule.

The Council considered a range of dates and levels of participation, as well as conditions to increase participation when yellowfin TAC is high, before adopting its preferred alternative for Amendment 116. The Council determined and NMFS agrees that the eligibility requirements for a BSAI TLAS yellowfin sole directed fishery endorsement within Amendment 116 would balance the need to limit entry to the BSAI TLAS yellowfin sole directed fishery to control the pace of fishing and halibut bycatch with the needs of more recent participants by continuing to provide harvest opportunities in this fishery for AFA CPs and CVs, and non-AFA CVs.

NMFS is soliciting public comments on proposed Amendment 116 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendments 116, following NMFS’ evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendment 116 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendment 116 and addressed in the response to comments in the final decision. Comments received after end of the applicable comment period will not be considered in the approval/disapproval decision on Amendment 116. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: May 14, 2018.

**Kathleen E. Barrett,**

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

[FR Doc. 2018–10597 Filed 5–17–18; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register

Vol. 83, No. 97

Friday, May 18, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### North Central Idaho Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The North Central Idaho Resource Advisory Committee (RAC) will meet in Grangeville, Idaho. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: <https://www.fs.usda.gov/main/nezperceclearwater/workingtogether/advisorycommittees>.

**DATES:** The meeting will be held June 19, 2018, at 10:00 a.m. (PDT)

**ADDRESSES:** The meeting will be held at the Nez Perce-Clearwater National Forests, Grangeville Office, Main Conference Room, 104 Airport Road, Grangeville, Idaho.

Written comments may be submitted as described under **SUPPLEMENTARY**

**INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Nez Perce-Clearwater National Forests, Grangeville Office in Grangeville, Idaho. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lisa Canaday, RAC Assistant, by phone at 208-983-7004 or via email at [lcanday@fs.fed.us](mailto:lcanday@fs.fed.us).

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

- (1) Introduce RAC members;
- (2) Elect Chairperson; and
- (3) Discuss the monitoring of previous projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 15, 2018, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lisa Canaday, Nez Perce-Clearwater National Forests, Grangeville Office, 104 Airport Road, Grangeville, Idaho 83530; or by email to [lcanday@fs.fed.us](mailto:lcanday@fs.fed.us), or via facsimile to 208-983-4098.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests

in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 8, 2018.

**Christopher French,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2018-10593 Filed 5-17-18; 8:45 am]

**BILLING CODE 3411-15-P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

#### LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[05/07/2018 through 05/13/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
St. Paul Stamp Works, Inc .....	87 Empire Drive, Saint Paul, MN 55103.	5/9/2018	The firm manufactures hand-operated date, sealing, and numbering stamps, including devices for embossing.
Goodwin-Bradley Pattern Company, Inc.	216 Oxford Street, Providence, RI 02905.	5/9/2018	The firm manufactures foundry patterns for metal casting, molds for rubber products, and related tooling.
Metal Guru, Inc. d/b/a Vicious Cycles.	205 South Ohioville Road, New Paltz, NY 12561.	5/10/2018	The firm manufactures bicycles, bicycle frames, and bicycle components.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT  
ASSISTANCE—Continued  
[05/07/2018 through 05/13/2018]

Firm name	Firm address	Date accepted for investigation	Product(s)
Hus Furniture, Inc .....	20 Cards Mill Road, Columbia, CT 06237.	5/11/2018	The firm manufactures residential furniture of solid wood, including dinner tables, coffee tables, and chairs.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Irette Patterson,**  
Program Analyst.

[FR Doc. 2018-10616 Filed 5-17-18; 8:45 am]

BILLING CODE 3510-WH-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-839, A-583-833]

#### **Polyester Staple Fiber From the Republic of Korea and Taiwan: Final Results of Changed Circumstances Reviews, and Revocation of Antidumping Duty Orders, in Part**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** For the final results of these changed circumstances reviews (CCRs), the Department of Commerce (Commerce) is revoking, in part, the antidumping duty (AD) orders on polyester staple fiber (PSF) from the Republic of Korea (Korea) and Taiwan with respect to certain low-melt PSF.

**DATES:** Applicable May 18, 2018.

**FOR FURTHER INFORMATION CONTACT:** Emily Halle or Nicholas Czajkowski, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue

NW, Washington, DC 20230; telephone (202) 482-0176 or (202) 482-1395, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 16, 2018, Commerce published the notice of initiation of the CCRs requested by DAK Americas, LLC; Nan Ya Plastics Corporation, America; Auriga Polymers; and Palmetto Synthetics LLC (*i.e.*, the domestic producers) pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b). The domestic producers requested the revocation of the orders with respect to any low-melt PSF that may be covered by the *Orders*<sup>1</sup> to avoid any potential overlap in coverage between the *Orders* and the AD orders that may result from the pending less-than-fair-value investigations of low-melt polyester staple fiber from Korea and Taiwan.<sup>2</sup>

On April 19, 2018, Commerce published the preliminary results of these CCRs, in which it found that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief afforded by the *Orders* with respect to certain low-melt PSF.<sup>3</sup> Commerce invited interested

<sup>1</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000) (*Orders*).

<sup>2</sup> See *Polyester Staple Fiber from the Republic of Korea and Taiwan: Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping Duty Orders in Part*, 83 FR 11678 (March 16, 2018) (*Initiation Notice*); see also *Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 34277 (July 24, 2017); *Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 4906 (February 2, 2018); and *Low Melt Polyester Staple Fiber from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 4903 (February 2, 2018).

<sup>3</sup> See *Polyester Staple Fiber from the Republic of Korea and Taiwan: Preliminary Results of Changed*

parties to submit comments on the preliminary results. We received no comments.

#### **Final Results of Changed Circumstances Reviews, and Revocation of the Orders, in Part**

Because no party submitted comments opposing Commerce's preliminary results, and the record contains no other information or evidence that calls into question the preliminary results, Commerce determines, pursuant to section 751(d)(1) of the Act, section 782(h) of the Act, and 19 CFR 351.222(g), that there are changed circumstances that warrant revocation of the *Orders*, in part. Specifically, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to the following type of PSF, we are revoking the *Orders*, in part, by replacing the following language currently in the scope of the *Orders*: “{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core,” with the following language: “{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component.” The scope description below includes this replacement language.

#### **Scope of the Orders**

The product covered by the *Orders* is certain polyester staple fiber (PSF). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The

*Circumstances Reviews, and Intent To Revoke Antidumping Duty Orders in Part*, 83 FR 17364 (April 19, 2018).

merchandise subject to these *Orders* may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.25 is specifically excluded from these orders. Also specifically excluded from these *Orders* are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from these *Orders*. Low-melt PSF is defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component.

The merchandise subject to these *Orders* is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65.<sup>4</sup> Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the *Orders* is dispositive.

#### Instructions to U.S. Customs and Border Protection

Because we determine that there are changed circumstances that warrant the revocation of the *Orders*, in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to antidumping duties, and to refund any estimated antidumping duties, on all unliquidated entries of the merchandise covered by this partial revocation that are not covered by the final results of an administrative review or automatic liquidation.<sup>5</sup>

#### Notification to Interested Parties

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their

<sup>4</sup> These HTSUS numbers have been revised to reflect changes in the HTSUS numbers at the suffix level.

<sup>5</sup> The most recent administrative review of the Korea AD order was completed on August 2, 2017, and covered the period of review (POR) May 1, 2016 through April 30, 2017. See *Polyester Staple Fiber from the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2016–2017*, 82 FR 37052 (August 8, 2017) (which rescinds the review for the Korea AD order, A–580–839). For the Taiwan AD order, A–583–833, Commerce did not receive a request to conduct an administrative review for the POR May 1, 2016 through April 30, 2017. Commerce issued instructions to CBP on July 21, 2017, liquidating all entries for all firms for the POR. Therefore, the partial revocation for merchandise subject to the *Orders* will be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after May 1, 2017.

responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/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.

We are issuing and publishing these final results and revocation, in part, and notice in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: May 11, 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. 2018–10644 Filed 5–17–18; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B–30–2018]

#### Foreign-Trade Zone (FTZ) 7— Mayaguez, Puerto Rico; Notification of Proposed Production Activity; Lilly del Caribe, Inc.; (Pharmaceutical Products); Carolina, Puerto Rico

Lilly del Caribe, Inc. (Lilly del Caribe) submitted a notification of proposed production activity to the FTZ Board for its facility in Carolina, Puerto Rico. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 14, 2018.

Lilly del Caribe already has authority to produce the active ingredients humalog, duloxetine, abemaciclib, and baricitinib within Subzone 7K. The current request would add a finished product and a foreign status material/component to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material/component and the specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Lilly del Caribe from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status material/component noted below and in the existing scope of authority, the company

would be able to choose the duty rates during customs entry procedures that apply to: Finished lasmiditan tablets (duty-free). Lilly del Caribe would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material/component sourced from abroad is: Lasmiditan hemisuccinate active ingredient (duty rate 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is **June 27, 2018**.

A copy of the notification 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 Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Christopher Wedderburn at [chris.wedderburn@trade.gov](mailto:chris.wedderburn@trade.gov) or (202) 482–1963.

Dated: May 15, 2018.

**Andrew McGilvray,**  
*Executive Secretary.*

[FR Doc. 2018–10646 Filed 5–17–18; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–904]

#### Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016–2017

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that Carbon Activated Tianjin Co., Ltd. (Carbon Activated) and Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang), exporters of certain activated from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) April 1, 2016, through March 31, 2017. Interested parties are invited to comment on these preliminary results.



**DATES:** Applicable May 18, 2018.

**FOR FURTHER INFORMATION CONTACT:** John Anwesen or Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0131, or (202) 482-0339, respectively.

**SUPPLEMENTARY INFORMATION:**

**Scope of the Order**

The merchandise subject to the order is certain activated carbon. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3802.10.00.<sup>1</sup> Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.

**Background**

This administrative review is being conducted in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this administrative review on June 7, 2017.<sup>2</sup> On November 6, 2017, Commerce extended the preliminary results deadline until April 30, 2018.<sup>3</sup> On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.<sup>4</sup> The revised deadline for the preliminary results of this review is May 3, 2018.

**Preliminary Determination of No Shipments**

Based on our analysis of U.S. Customs and Border Protection (CBP) information, and the no shipment certifications submitted by Calgon Carbon (Tianjin) Co., Ltd., Datong Municipal Yunguang Activated Carbon Co., Ltd., Jilin Bright Future Chemicals Co., Ltd., Shanxi Dapu International Trade Co., Ltd., Shanxi Industry Technology Trading Co., Ltd., and Tianjin Channel Filters Co., Ltd., Commerce preliminarily determines that these companies had no shipments of subject merchandise during the POR. For additional information regarding this determination, see the Preliminary Decision Memorandum.

Consistent with our practice in non-market economy (NME) cases, we are not rescinding this review, in part, but intend to complete the review with respect to these six companies, for which it has preliminarily found no shipments, and issue appropriate instructions to CBP based on the final results of the review.<sup>5</sup>

**Methodology**

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because China is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. 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 and electronic versions of the Preliminary Decision Memorandum are identical in content.

**Preliminary Results of the Review**

Commerce preliminarily finds that 16 companies for which a review was requested, and not rescinded, did not establish eligibility for a separate rate because they failed to provide either a separate rate application or separate rate certification. As such, we preliminarily determine that these 16 companies are part of the China-wide entity.<sup>6</sup>

For those companies that have established their eligibility for a separate rate,<sup>7</sup> Commerce preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (U.S. dollars per kilogram) <sup>8</sup>
Beijing Pacific Activated Carbon Products Co., Ltd	0.35
Carbon Activated Tianjin Co., Ltd	0.68
Datong Juqiang Activated Carbon Co., Ltd	0.28
Jacobi Carbons AB <sup>9</sup>	0.35
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd	0.35
Ningxia Huahui Activated Carbon Co., Ltd	0.35
Ningxia Mineral & Chemical Limited	0.35
Shanxi Sincere Industrial Co., Ltd	0.35

<sup>1</sup> For a complete description of the Scope of the Order, see Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Activated Carbon from the People's Republic of China: 2016-2017," dated May 3, 2018 (Preliminary Decision Memorandum) and hereby adopted by this notice.

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 26444 (June 7, 2017) (*Initiation Notice*).

<sup>3</sup> See Memorandum, "Certain Activated Carbon from the People's Republic of China: Extension of Deadline for Preliminary Results of the Tenth Antidumping Duty Administrative Review," dated November 6, 2017.

<sup>4</sup> See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>5</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011).

<sup>6</sup> Because no interested party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, we did not conduct a review of the China-wide entity. Thus, the rate for the China-wide entity is not subject to change as a result of this review. See

*Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013). The China-wide entity rate of 2.42 U.S. dollars per kilogram was last reviewed in *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 70163 (November 25, 2014).

<sup>7</sup> See Preliminary Decision Memorandum.



## Disclosure and Public Comment

Commerce intends to disclose the calculations performed for these preliminary results to the parties no later than ten days after the date of the public announcement of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. 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. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs are filed.<sup>10</sup>

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 within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.<sup>11</sup> If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230, at a date and time to be determined.<sup>12</sup> Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

<sup>8</sup> In the second administrative review of the *Order*, Commerce determined that it would calculate per-unit weighted-average dumping margins and assessment rates for all future reviews. See *Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208, 70211 (November 17, 2010). See also *Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China*, 72 FR 20988 (April 27, 2007) (*Order*).

<sup>9</sup> In the third administrative review of the *Order*, Commerce found that Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity, and because there were no facts presented on the record of this review which would call into question our prior finding, we continue to treat these companies as part of a single entity for this administrative review, pursuant to sections 771(33)(E), (F), and (G) of the Act and 19 CFR 351.401(f). See *Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review*, 76 FR 67142, 67145, n.25 (October 31, 2011); see also Preliminary Decision Memorandum.

<sup>10</sup> See 19 CFR 351.309(d).

<sup>11</sup> See 19 CFR 351.310(c).

<sup>12</sup> See 19 CFR 351.310(d).

All submissions, with limited exceptions, must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*e.g.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

## Assessment Rates

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.<sup>13</sup> Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose (estimated) *ad valorem* weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total quantity of those sales, in accordance with 19 CFR 351.212(b)(1).<sup>14</sup> Commerce will also calculate (estimated) *ad valorem* importer-specific assessment rates with which to assess whether the per-unit assessment rate is *de minimis*.<sup>15</sup> We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-

<sup>13</sup> See 19 CFR 351.212(b)(1).

<sup>14</sup> 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 Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

<sup>15</sup> For calculated (estimated) *ad valorem* importer-specific assessment rates used in determining whether the per-unit assessment rate is *de minimis*, see Memorandum, "Preliminary Results Margin Calculation for Datong Juqiang Activated Carbon Co., Ltd.; Antidumping Duty Administrative Review of Certain Activated Carbon the People's Republic of China," dated May 3, 2018 and Memorandum, "Preliminary Results Calculation Memorandum for Carbon Activated; Antidumping Duty Administrative Review of Certain Activated Carbon the People's Republic of China," dated May 3, 2018, and attached Margin Calculation Program Log and Outputs.

specific *ad valorem* assessment rate calculated in the final results of this review is not zero or *de minimis*. Where either the respondent's *ad valorem* weighted-average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>16</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries that were not reported in the U.S. sales data submitted by companies individually examined during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.<sup>17</sup> Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's cash deposit rate) will be liquidated at the rate for the China-wide entity.<sup>18</sup>

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

## Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For each specific company listed in the final results of this review, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the *ad valorem* rate is *de minimis*, then the cash deposit rate will be zero); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have received a separate rate in the completed segment of this proceeding for the most recent period, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which have not received

<sup>16</sup> See 19 CFR 351.106(c)(2).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: May 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

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
  - a. Preliminary Finding of No Shipments
  - b. Non-Market Economy Country
  - c. Separate Rates
  - d. Weighted-Average Dumping Margin for Non-Examined Separate-Rate Companies
  - e. Surrogate Country and Surrogate Value Data
  - f. Partial Facts Available and Partial Adverse Facts Available for Normal Value Date of Sale
  - g. Comparisons to Normal Value
  - h. U.S. Price
  - i. Normal Value
  - j. Currency Conversion
5. Recommendation

[FR Doc. 2018-10649 Filed 5-17-18; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XG243

#### Endangered and Threatened Species; Take of Anadromous Fish

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

**ACTION:** Notice. Applications for two new scientific research permits and one scientific research permit modification.

**SUMMARY:** Notice is hereby given that NMFS has received three scientific research permit application requests relating to Pacific salmon and steelhead. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: [https://apps.nmfs.noaa.gov/preview/preview\\_open\\_for\\_comment.cfm](https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm).

**DATES:** Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 18, 2018.

**ADDRESSES:** Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274. Comments may also be sent via fax to 503-230-5441 or by email to [nmfs.nwr.apps@noaa.gov](mailto:nmfs.nwr.apps@noaa.gov) (include the permit number in the subject line of the fax or email).

**FOR FURTHER INFORMATION CONTACT:** Rob Clapp, Portland, OR (ph.: 503-231-2314), Fax: 503-230-5441, email: [Robert.Clapp@noaa.gov](mailto:Robert.Clapp@noaa.gov). Permit application instructions are available from the address above, or online at <https://apps.nmfs.noaa.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Upper Willamette River (UWR).

Coho salmon (*O. kisutch*): Threatened Oregon Coast (OC).

Steelhead (*O. mykiss*): Threatened Lower Columbia River (LCR); threatened UWR.

#### Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A)

of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222-226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

#### Applications Received

##### Permit 1135-10M

The United States Geological Survey (USGS) is seeking to modify a permit that currently authorizes them to take juvenile LCR steelhead in the Wind River subbasin (Washington). The permit would expire on December 31, 2021. The purpose of the study is to provide information on growth, survival, habitat use, and life histories of LCR steelhead. This information would improve understanding of habitat associations and life history strategies for LCR steelhead in the Wind River and that, in turn, would help state, tribal, and Federal efforts to restore LCR steelhead. This information would benefit LCR steelhead by improving our understanding of habitat associations and life history strategies in the Wind River. This new information would, in turn, help state, tribal, and Federal efforts to restore LCR steelhead.

The USGS proposes to capture juvenile LCR steelhead using backpack electrofishing equipment, hold the fish in aerated buckets, anesthetize them with MS-222, measure length and weight, tag age-0 and age-1 fish with passive integrated transponders (PIT-tags), and release all fish at the site of collection after they recover from anesthesia. The permit modification would not change the methods or scope of the ongoing research except to increase the take of juvenile LCR steelhead that are captured, handled, and then released without PIT-tagging from 2,500 to 4,500 fish annually. The USGS also requests to increase the unintentional mortalities authorized for fish that are released without PIT-tagging, from 75 to 135 fish annually. The USGS requests this increase in take because they captured unusually high

numbers of age-0 LCR steelhead in 2017. The researchers do not propose to kill any fish but a small number may die as an unintended result of research activities.

#### Permit 21837

Researchers at the Oregon State University are requesting a permit that would allow them to take juvenile and adult UWR Chinook salmon and UWR steelhead. The research permit would expire on December 31, 2022. The researchers propose to work in the upper Willamette River (Oregon) and its tributaries including the Middle Fork Willamette, Coast Fork Willamette, Calapooia, Long Tom, Marys, and Luckiamute Rivers. The purpose of their research is to describe how water temperature and the presence of coldwater refugia influence the behavior, growth, diet, body condition, seasonal movements, and habitat associations of coastal cutthroat trout. The research would provide information to help fisheries managers prioritize conservation and management efforts in the context of climate change. The research would benefit UWR Chinook salmon and UWR steelhead by providing information on how a salmonids with similar ecological requirements—coastal cutthroat trout—adapt to increasing water temperatures. This new information would help fisheries managers prioritize conservation and management efforts in the context of climate change.

The researchers propose to capture fish using boat and backpack electrofishing, stick and beach seining, and angling. The researchers would identify fish immediately after capture and hold them in cool, aerated buckets. The researchers propose to hold ESA-listed fish only long enough to avoid recapturing them. They would release the fish to the site of capture, with no further handling or measurements, as soon as they complete sampling at a site. The researchers propose the following measures to minimize take of adult UWR Chinook and UWR steelhead for each sampling date: (1) Request current information from the Oregon Department of Fish and Wildlife on adult run timing and distribution, (2) conduct visual reconnaissance surveys before sampling each site, and (3) avoid sampling in areas where adult salmonids are likely to hold, such as pools, glides, and tributary junctions. If researchers observe adult salmon or steelhead, the researchers would immediately stop sampling and leave the site. The researchers would not seine a single site more than five times or electrofish a single site more than

three times across the summer sampling season. The researchers do not propose to kill any fish but a small number of juveniles may die as an unintended result of research activities.

#### Permit 22069

The Oregon Department of Fish and Wildlife (ODFW) is requesting a permit that would allow them to take OC coho in the Tillamook Bay (Oregon). The research permit would expire on December 31, 2022. ODFW proposes to conduct a radio telemetry study of OC fall-run Chinook salmon, which are not ESA-listed. Researchers may unintentionally take OC coho salmon while collecting Chinook salmon. The goal of the research study is to improve information on the distribution and abundance of Chinook spawners in the Tillamook basin. The OC Chinook salmon ESU is subject to management under the Pacific Salmon Treaty, which calls for use of abundance-based management. Information on the distribution of spawning OC Chinook in the Tillamook basin is essential for developing an efficient and cost effective program to monitor Chinook spawner abundance. In addition, this research would benefit ESA-listed salmonids by demonstrating and improving methods for capturing and tagging fish in a large bay setting, and tracking spawner movement into multiple geographic strata.

The ODFW proposes to capture fish from August through December in the lower portion of Tillamook Bay, below the mouths of the five primary Chinook spawning streams that flow into the bay. ODFW proposes to capture juvenile and adult OC coho using angling, seines, and tangle nets. The nets would have a nylon mesh size of 4.5 inches and range from 75 to 150 feet in length and 8 to 20 feet in depth, dependent upon water levels and sampling conditions. To minimize stress and injury of fish captured using tangle nets, the researchers propose to: (1) Observe nets constantly during deployment, (2) remove fish immediately upon detection of capture (*i.e.*, typically less than two minutes after entanglement), and (3) relocate tangle nets if a coho is captured or if any fish is recaptured on the same day. ODFW proposes to identify fish upon capture, and immediately release any coho salmon without further handling. The researchers do not propose to kill any fish but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to

determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: May 15, 2018.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2018–10655 Filed 5–17–18; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed additions and deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to and Deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services previously furnished by such agencies.

**DATES:** Comments must be received on or before: June 17, 2018.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

**FOR FURTHER INFORMATION CONTACT:** For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and services are proposed for addition to the

Procurement List for production by the nonprofit agencies listed:

*Products*

*NSN(s)—Product Name(s):*

8415-00-NIB-1222—Trunks, Army National Guard (ARNG), Unisex, X-Small  
 8415-00-NIB-1223—Trunks, Army National Guard (ARNG), Unisex, Small  
 8415-00-NIB-1224—Trunks, Army National Guard (ARNG), Unisex, Medium  
 8415-00-NIB-1225—Trunks, Army National Guard (ARNG), Unisex, Large  
 8415-00-NIB-1226—Trunks, Army National Guard (ARNG), Unisex, X-Large  
 8415-00-NIB-1227—Trunks, Army National Guard (ARNG), Unisex, XX-Large  
 8415-00-NIB-1228—Trunks, Army National Guard (ARNG), Unisex, XXX-Large  
 8415-00-NIB-1229—Sweatshirt, Army National Guard (ARNG), Unisex, X-Small  
 8415-00-NIB-1230—Sweatshirt, Army National Guard (ARNG), Unisex, Small  
 8415-00-NIB-1231—Sweatshirt, Army National Guard (ARNG), Unisex, Medium  
 8415-00-NIB-1232—Sweatshirt, Army National Guard (ARNG), Unisex, Large  
 8415-00-NIB-1233—Sweatshirt, Army National Guard (ARNG), Unisex, X-Large  
 8415-00-NIB-1234—Sweatshirt, Army National Guard (ARNG), Unisex, XX-Large  
 8415-00-NIB-1235—Sweatshirt, Army National Guard (ARNG), Unisex, XXX-Large  
 8415-00-NIB-1236—T-shirt, Army National Guard (ARNG), Unisex, X-Small  
 8415-00-NIB-1237—T-shirt, Army National Guard (ARNG), Unisex, Small  
 8415-00-NIB-1238—T-shirt, Army National Guard (ARNG), Unisex, Medium  
 8415-00-NIB-1239—T-shirt, Army National Guard (ARNG), Unisex, Large  
 8415-00-NIB-1240—T-shirt, Army National Guard (ARNG), Unisex, X-Large  
 8415-00-NIB-1241—T-shirt, Army National Guard (ARNG), Unisex, XX-Large  
 8415-00-NIB-1242—T-shirt, Army National Guard (ARNG), Unisex, XXX-Large  
 8415-00-NIB-1243—Pants, Army National Guard (ARNG), Unisex, X-Small/Regular  
 8415-00-NIB-1244—Pants, Army National Guard (ARNG), Unisex, Small/Short  
 8415-00-NIB-1245—Pants, Army National Guard (ARNG), Unisex, Small/Long  
 8415-00-NIB-1246—Pants, Army National Guard (ARNG), Unisex, Medium/Short  
 8415-00-NIB-1247—Pants, Army National Guard (ARNG), Unisex, Medium/Regular  
 8415-00-NIB-1248—Pants, Army National Guard (ARNG), Unisex, Medium/Long  
 8415-00-NIB-1249—Pants, Army National Guard (ARNG), Unisex, Large/Short  
 8415-00-NIB-1250—Pants, Army National Guard (ARNG), Unisex, Large/Regular  
 8415-00-NIB-1251—Pants, Army National Guard (ARNG), Unisex, Large/Long  
 8415-00-NIB-1252—Pants, Army National Guard (ARNG), Unisex, X-Large/Short

8415-00-NIB-1253—Pants, Army National Guard (ARNG), Unisex, X-Large/Regular  
 8415-00-NIB-1254—Pants, Army National Guard (ARNG), Unisex, X-Large/Long  
 8415-00-NIB-1255—Pants, Army National Guard (ARNG), Unisex, XX-Large/Regular  
 8415-00-NIB-1273—Pants, Army National Guard (ARNG), Unisex, Small/Regular  
*Mandatory Source of Supply:* Winston Salem Industries for the Blind, Winston-Salem, NC

*Mandatory For:* 100% of the requirement of the Army National Guard  
*Contracting Activity:* Army National Guard—2100W9133N

*Distribution:* C-List

*NSN(s)—Product Name(s):* 2540-01-165-6136—Chock, Wheel-Track, Wood, 7-3/4" x 5-3/4"

*Mandatory Source(s) of Supply:* NewView Oklahoma, Inc., Oklahoma City, OK  
*Mandatory for:* 100% of the requirement of the Department of Defense

*Contracting Activity:* Defense Logistics Agency Land and Maritime

*Distribution:* C-List

*NSN(s)—Product Name(s):* 4330-01-189-1007—Filter-Separator, Liquid Fuel  
*Mandatory Source(s) of Supply:* Georgia Industries for the Blind, Bainbridge, GA

*Mandatory for:* 100% of the requirement of the Department of Defense

*Contracting Activity:* Defense Logistics Agency Land and Maritime

*Distribution:* C-List

*NSN(s)—Product Name(s):* 7490-00-NIB-0051—Lamination Machine, Office, 3-5Mil Pouches, 18.5" L x 6.38" W x 3.06" H, 3.75 lbs., Black and Silver

*Mandatory Source(s) of Supply:* LC Industries, Inc., Durham, NC  
*Mandatory for:* Total Government Requirement

*Contracting Activity:* General Services Administration, New York, NY

*Distribution:* A-List

*Services*

*Service Type:* Total Facility Management Service

*Mandatory for:* National Institutes of Health, NIH Animal Center, 16701 Elmer School Road, Dickerson, MD 20842

*Mandatory Source(s) of Supply:* Skookum Educational Programs, Bremerton, WA

*Contracting Activity:* National Institutes of Health

*Service Type:* Mailroom Service  
*Mandatory for:* Bureau of Engraving and Printing, Office of Financial Management, 14th & C Streets SW, Washington, DC

*Mandatory Source(s) of Supply:* Melwood Horticultural Training Center, Inc., Upper Marlboro, MD

*Contracting Activity:* Bureau of Engraving and Printing, BEP Office of Acquisition

*Contracting Activity:* Bureau of Engraving and Printing, BEP Office of Acquisition

**Deletions**

The following products and services are proposed for deletion from the Procurement List:

*Products*

*NSN(s)—Product Name(s):*

MR 1162—Apron, Father's Day  
 MR 1188—MR Towel Set, Christmas, Includes Shipper 11188  
 MR 1189—Drying Mat, Microfiber, Holiday Themed  
 MR 864—Refill, Lint Roller

*Mandatory Source(s) of Supply:* Alphapointe, Kansas City, MO

*Contracting Activity:* Defense Commissary Agency

*NSN(s)—Product Name(s):*

MR 302—Silicone Batter Spoon  
 MR 303—Silicone Whisk  
 MR 304—Silicone Tong w/Locking Handle  
 MR 318—Set, Mixing Bowl, Spill-Free, 3PC  
 MR 328—Silicone Mini Brush  
 MR 329—Silicone Mini Turner  
 MR 351—Containers, Storage, 20PG  
 MR 358—Serving Bowl, Patriotic, Plastic 7Qt

MR 1056—Mop, Spray, Wet  
*Mandatory Source(s) of Supply:* Industries for the Blind, Inc., West Allis, WI

*Contracting Activity:* Defense Commissary Agency

*NSN(s)—Product Name(s):*

MR 10657—Pop Tart Saver, Includes Shipper 20657  
 MR 10658—Loopity Loop Sipper, 11-Ounce, Includes Shipper 20658  
 MR 10659—Container Set, Soup and Salad, Includes Shipper 20659

MR 10731—Garden Colander. Includes Shipper 20731

MR 10732—Hershey's Lava Cake Maker, Shipper 20732

MR 10733—Reese's Lava Cake Maker, Shipper 20732

*Mandatory Source(s) of Supply:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

*Contracting Activity:* Defense Commissary Agency

*NSN(s)—Product Name(s):* MR 3211—Ouchless Headband Flat

*Mandatory Source(s) of Supply:* Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY

*Contracting Activity:* Defense Commissary Agency

*NSN(s)—Product Name(s):* MR 896—Turner, Flexible, Thin, 11.5" x 12" x 4"

*Mandatory Source(s) of Supply:* Cincinnati Association for the Blind, Cincinnati, OH

*Contracting Activity:* Defense Commissary Agency

*Services*

*Service Type:* Janitorial and Custodial Service

*Mandatory for:* Naval & Marine Corps Reserve Center, 1600 West Lafayette Ave., Moundsville, WV

*Mandatory Source(s) of Supply:* Russell Nesbitt Services, Inc., Wheeling, WV

*Mandatory for:* Marine Corps Reserve Center, 615 Kenhorst Boulevard, Reading, PA

*Mandatory Source(s) of Supply:* Quality Employment Services and Training, Inc., Lebanon, PA

*Service Type:* Consolidated Base Operation Support (BOS) Service

*Mandatory for:* Marine Corps Reserve Center, 615 Kenhorst Boulevard, Reading, PA

*Mandatory Source(s) of Supply:* Quality Employment Services and Training, Inc., Lebanon, PA

*Service Type:* Consolidated Base Operation Support (BOS) Service  
*Mandatory for:* Marine Corps Reserve Center, 615 Kenhorst Boulevard, Reading, PA  
 Naval & Marine Corps Reserve Center, 1600 Lafayette Ave, Moundsville, WV

*Mandatory Source(s) of Supply:* Human Technologies Corporation, Utica, NY

The following information is applicable to all services listed above.

*Contracting Activity:* Dept of the Navy, Naval FAC Engineering CMD MID LANT

**Amy Jensen,**

*Director, Business Operations.*

[FR Doc. 2018-10668 Filed 5-17-18; 8:45 am]

**BILLING CODE 6353-01-P**

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB-2018-0021]

### Privacy Act of 1974; System of Records

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Rescindment of a System of Records Notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection (Bureau) provides notice that it is rescinding CFPB.012 Interstate Land Sales Registration Files from its inventory of record systems.

The Interstate Land Sales Registration Program (ILS Program) was developed as required by Interstate Land Sales Full Disclosure Act of 1968. Originally, the Department of Housing and Urban Development (HUD) maintained the ILS Program; ownership of this program transferred from HUD to the Bureau as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The ILS Program maintains information submitted by developers of land or other individuals offering 25 or more lots for sale and using any means or instruments of interstate commerce (including the mails) in promoting or selling properties pursuant to the requirements of the Interstate Land Sales Full Disclosure Act, and in the administration and management of the Interstate Land Sales Registration Program.

The Bureau is rescinding this System of Records Notice because the ILS Program collects no individual identifiers on which searches are conducted, thereby making a System of Records Notice unnecessary.

**DATES:** Comments must be received no later than June 18, 2018. This Rescindment will be effective upon publication in today's **Federal Register**. The Bureau will continue to operate the ILS Program in its current form, which does not require a System of Records Notice.

**ADDRESSES:** You may submit comments, identified by the title and docket number (see above), by any of the following methods:

- *Electronic:* [privacy@cfpb.gov](mailto:privacy@cfpb.gov) or <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

- *Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:**

Claire Stapleton, Chief Privacy Officer, at (202) 435-7220. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The files for the ILS Program are organized and searchable only by business and parcel information. While the ILS Program also contains certain kinds of personally identifiable information, it does not collect individual identifiers on which searches are conducted and there is no accompanying file or process to cross-reference this kind of information to an individual. The ILS Program, therefore, does not require a System of Records Notice and the rescindment of such of notice would likely have little effect on the privacy of individuals whose information was maintained in the system of records. Rescindment of this System of Records Notice will also promote the overall streamlining and management of the CFPB Privacy Act record systems.

**SYSTEM NAMES AND NUMBERS:**

CFPB.012 Interstate Land Sales Registration Files.

**HISTORY:**

76 FR 77470 (Dec. 13, 2011) (CFPB.012 Interstate Land Sales Registration Files).

Dated: May 14, 2018.

**Claire Stapleton,**

*Chief Privacy Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2018-10631 Filed 5-17-18; 8:45 am]

**BILLING CODE 4810-AM-P**

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB-2018-0019]

### Privacy Act of 1974; System of Records

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Rescindment of a System of Records Notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection (Bureau) provides notice that it is rescinding CFPB.024 Judicial and Administrative Filings Collection from its inventory of record systems.

The System of Records Notice was intended to address a potential collection of publicly available personally identifiable information contained in formal judicial and administrative filings, or other formal actions that have reached final judgment, involving financial frauds against consumers. The collection would have been used in identifying repeat offenders and prosecuting cases based on these types of frauds, and access to the records would have been limited to State and Federal agencies for law enforcement purposes.

The Bureau is rescinding this System of Records Notice because it never created this system and no information or documents were ever collected, thereby making the System of Records Notice unnecessary.

**DATES:** Comments must be received no later than June 18, 2018. This Rescindment will be effective upon publication in today's **Federal Register**.

**ADDRESSES:** You may submit comments, identified by the title and docket number (see above), by any of the following methods:

- *Electronic:* [privacy@cfpb.gov](mailto:privacy@cfpb.gov) or <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

- *Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Comments will be available for public inspection and copying at 1700 G Street

NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Claire Stapleton, Chief Privacy Officer, at (202) 435-7220. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau never implemented the Judicial and Administrative Filings Collection and no information or documents were ever collected pursuant to this Systems of Records Notice. Accordingly, the Bureau reasonably believes that the rescindment of this System of Records Notice will have little effect on individuals' privacy. Rescindment of this System of Records Notice will also promote the overall streamlining and management of Privacy Act record systems for the Bureau.

**SYSTEM NAME AND NUMBER:**

CFPB.024 Judicial and Administrative Filings Collection.

**HISTORY:**

78 FR 25426 (May 1, 2013) (CFPB.024 Judicial and Administrative Filings Collection).

Dated: May 14, 2018.

**Claire Stapleton,**

*Chief Privacy Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2018-10632 Filed 5-17-18; 8:45 am]

**BILLING CODE 4810-AM-P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Charter Establishment of Department of Defense Federal Advisory Committees

**AGENCY:** Department of Defense.

**ACTION:** Renewal of Federal Advisory Committee.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the U.S. Army Science Board ("the Board").

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee

Management Officer for the Department of Defense, 703-692-5952.

**SUPPLEMENTARY INFORMATION:** This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102-3.50(d). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be obtained at <http://www.facadatabase.gov/>.

The Board provides the Secretary of Defense independent advice and recommendations on matters relating to the Army's scientific, technical, manufacturing, acquisition, logistics, and business management functions, as well as other Department of the Army related matters as determined by the Secretary of the Army. The Board shall be composed of no more than 20 members who are eminent authorities in one or more of the following disciplines: Science, technology, manufacturing, acquisition, logistics, and business management functions, as well as other matters of special interest to the Department of the Army. Members who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102-3.130(a) to serve as regular government employee members. All members are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation. The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any

Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: May 15, 2018.

**Shelly E. Finke,**

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

[FR Doc. 2018-10607 Filed 5-17-18; 8:45 am]

**BILLING CODE 5001-06-P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Under Secretary of Defense for Research and Engineering, Defense Science Board, Department of Defense.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board will take place.

**DATES:** Day 1—Closed to the public Wednesday, May 16, 2018 from 8:00 a.m. to 5:15 p.m. Day 2—Closed to the public Thursday, May 17, 2018 from 10 a.m. to 4:45 p.m.

**ADDRESSES:** The address of the closed meeting is the Nunn-Lugar Conference Room, 3E863 at the Pentagon, Washington, DC 20301.

**FOR FURTHER INFORMATION CONTACT:** Defense Science Board Designated Federal Officer (DFO) Mr. Edward C. Gliot, (703) 571-0079 (Voice), (703) 697-1860 (Facsimile), [edward.c.gliot.civ@mail.mil](mailto:edward.c.gliot.civ@mail.mil) (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301-3140. Website: <http://www.acq.osd.mil/dsb/>. The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** : Due to circumstances beyond the control of the

Department of Defense (DoD) and the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the meeting on May 16 thru May 17, 2018, of the Defense Science Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement. This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

*Purpose of the Meeting:* The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet with DoD Leadership to discuss current and future national security challenges within the DoD. This meeting will focus on matters related to Homeland Defense, Survivable Logistics, DoD Modernization Strategy, and DoD Technology Strategy.

*Agenda:* The DSB Spring Quarterly meeting will begin on May 16, 2018 at 8:00 a.m. with opening remarks by Edward Gliot, Designated Federal Officer, and DSB Chairman, Dr. Craig Fields. The first presentation will be from the DSB sponsor, Dr. Michael Griffin, Under Secretary of Defense for Research and Engineering who will provide a classified briefing on the views and priorities of the current administration on DoD Research and Engineering goals and strategy. Following Dr. Griffin, Dr. Will Roper, Assistant Secretary of the Air Force for Acquisition will provide a classified briefing on Air Force Modernization. Following Dr. Roper's presentation, Mr. James Geurts, Assistant Secretary of the Navy for Research, Development and Acquisition will provide a classified briefing on Navy Modernization. Following lunch, Honorable Dr. Bruce D. Jette, Assistant Secretary of the Army (Acquisition, Logistics and Technology) will provide a classified briefing on Army Modernization. The next briefing will be a presentation of findings, deliberations, and vote on the work of the Homeland Defense Task Force by Dr. Mim John and Dr. Judith Miller. The next briefing will be a presentation of findings, deliberations, and vote on the work of the Survivable Logistics Task Force by Gen Paul Kern, Ret. and Gen

Duncan McNabb, Ret. The final presentations of the day will be the first two technology area working groups working on a high priority task from the USD(R&E). The Cybersecurity Group discussion will be led by Mr. Jim Gosler and the Command, Control & Communications Group discussion will be led by Mr. Al Grasso. The meeting on May 16, 2018 will adjourn at 5:15 p.m. On the second day of the meeting, May 17, 2018 the day will begin with a presentation and discussion from the Hypersonics Group led by Mr. Mark Russell and the Directed Energy Group led by Dr. Paul Kaminski. Following lunch, the following groups will engage in presentations and discussion: Space Offense & Defense Group led by Mr. Lou Von Thaeer, Artificial Intelligence/Machine Learning Group led by Dr. Ruth David, Missile Defense Group led by Mr. Bob Stein, Quantum Science & Computing led by Dr. John Manfredelli, Microelectronics Group led by Dr. Victoria Coleman, Nuclear Modernization Group led by Dr. Mim John. The meeting on May 17, 2018 will adjourn at 4:45 p.m.

*Meeting Accessibility:* In accordance with section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense (Research and Engineering), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense (Research and Engineering).

*Written Statements:* In accordance with section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the Defense Science Board DFO provided above at

any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: May 14, 2018.

**Shelly E. Finke,**

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

[FR Doc. 2018–10588 Filed 5–17–18; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Charter Renewal of Department of Defense Federal Advisory Committees

**AGENCY:** Department of Defense.

**ACTION:** Renewal of Federal Advisory Committee.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the U.S. Air Force Scientific Advisory Board.

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** This committee's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The charter and contact information for the Designated Federal Officer (DFO) can be obtained at <http://www.facadatabase.gov/>. The Board provides independent advice and recommendations on matters relating to the Department of the Air Force's scientific, technical, manufacturing, acquisition, logistics, and business management functions, as well as other Department of the Air Force related matters as determined by the Secretary of the Air Force. The Board shall be composed of no more than 20 members who are eminent authorities in one or more of the following disciplines: Science, technology, manufacturing, acquisition, logistics, and business management functions, as well as other matters of special interest to the Department of the Air Force. Members of the Board who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Members of the Board who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR



102–3.130(a) to serve as regular government employee members. Each Board member is appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, Board members serve without compensation. The DoD, as necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board, and all subcommittees must operate under the provisions of FACA and the Government in the Sunshine Act. Subcommittees will not work independently of the Board and must report all recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, directly to the DoD or any Federal officers or employees. The Board's DFO, pursuant to DoD policy, must be a full-time or permanent part-time DoD employee, and must be in attendance for the duration of each and every Board/subcommittee meeting. The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Such statements may be submitted at any time or in response to the stated agenda of planned Board meetings. All written statements must be submitted to the Board's DFO who will ensure the written statements are provided to the membership for their consideration.

Dated: May 15, 2018.

**Shelly E. Finke,**

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

[FR Doc. 2018–10608 Filed 5–17–18; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Pathways to STEM Apprenticeship for High School Career and Technical Education Students

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting

applications for new awards for fiscal year (FY) 2018 for the Pathways to STEM Apprenticeship for High School Career and Technical Education Students demonstration program, Catalog of Federal Domestic Assistance (CFDA) number 84.051E.

**DATES:**

*Applications Available:* May 18, 2018.  
*Deadline for Notice of Intent to Apply:* June 18, 2018.

*Date of Pre-Application Webinar:* For information about a pre-application webinar, visit the Perkins Collaborative Resource Network (PCRN) at <http://cte.ed.gov/>.

*Deadline for Transmittal of Applications:* July 17, 2018.

*Deadline for Intergovernmental Review:* September 17, 2018.

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003), and available at [www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf](http://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf).

**FOR FURTHER INFORMATION CONTACT:** Erin Berg, U.S. Department of Education, 400 Maryland Avenue SW, Potomac Center Plaza (PCP), Room 11136, Washington, DC 20202–7241. Telephone: (202) 245–6792. Email:

[PathwaysToApprenticeship@ed.gov](mailto:PathwaysToApprenticeship@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Pathways to STEM Apprenticeship for High School Career and Technical Education (CTE) Students (Pathways to STEM Apprenticeship grants) demonstration program is to support State efforts to expand and improve the transition of high school CTE Students<sup>1</sup> to postsecondary education and employment through Apprenticeships in science, technology, engineering, and mathematics (STEM) fields, including Computer Science, that begin during high school.

*Background:* Through this initiative, funded under section 114(c) of the Carl D. Perkins Career and Technical Education Act (Perkins Act), we will award competitive grants to States to

support technical assistance, program development, and other capacity-building activities that will strengthen the connections between high school CTE programs and Competency-Based Apprenticeship opportunities in STEM fields and increase the number of high school CTE Students who enter such Apprenticeships during high school.

Combining paid on-the-job learning with related CTE instruction in the classroom, an Apprenticeship offers individuals the opportunity to earn money as they learn and prepare for jobs that pay wages that can support a family. The average income for a worker who has completed an Apprenticeship program is \$60,000 a year, according to December 2017 Labor Department data.<sup>2</sup> A 2012 study funded by the Department of Labor used a quasi-experimental research design to compare the earnings of Apprenticeship participants in 10 States with the earnings of nonparticipants, adjusting for differences in pre-enrollment earnings and demographic characteristics.<sup>3</sup> Researchers found that, in the sixth year after enrollment, individuals who completed an Apprenticeship earned \$14,404 more than their counterparts who did not participate in an Apprenticeship. Even individuals who participated in an Apprenticeship but did not complete it earned more than individuals who did not enroll in an Apprenticeship.<sup>4</sup> Because employers or Apprenticeship program sponsors often pay the costs of the classroom instruction, as well as pay participants' wages, apprentices incur little or no debt, making an Apprenticeship an attractive career preparation alternative at a time when many college students are graduating deeply in debt. For these reasons, President Trump has challenged the Nation to expand significantly the number of Apprenticeship opportunities, including those available to America's high school students.<sup>5</sup>

Over the last two decades, the United States has made great progress in creating dual enrollment opportunities that enable students to earn college credit while they are still enrolled in

<sup>2</sup> Apprenticeship Toolkit, U.S. Department of Labor. Retrieved from: [www.dol.gov/apprenticeship/pdf/RA-WS-Partnerships.pdf](http://www.dol.gov/apprenticeship/pdf/RA-WS-Partnerships.pdf).

<sup>3</sup> Reed, D. et al. An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States. Washington, DC: Mathematica Policy Research. (2012). Retrieved from: [www.mathematica-mpr.com/our-publications-and-findings/publications/an-effectiveness-assessment-and-costbenefit-analysis-of-registered-apprenticeship-in-10-states](http://www.mathematica-mpr.com/our-publications-and-findings/publications/an-effectiveness-assessment-and-costbenefit-analysis-of-registered-apprenticeship-in-10-states).

<sup>4</sup> Ibid.

<sup>5</sup> Trump, Donald, J., Executive Order 13801, 82 FR 28229. (June 15, 2017).

<sup>1</sup> Throughout this notice, all defined terms are denoted with capitals.



high school. However, we have not been as successful in making Apprenticeships—another important postsecondary option—accessible to students during high school. While youth in Austria, Germany, Switzerland, and other nations are able to begin an Apprenticeship while still in high school, the Apprenticeship system in the United States does not have strong connections to high schools, including to high school CTE programs, and serves very few individuals under the age of 25.<sup>6</sup> The U.S. Department of Labor has reported that the average age of Registered Apprenticeship participants nationally is approximately 28 years.<sup>7</sup> In the Department of Labor's 10-State study, the average age for apprentices was even higher, 30.3 years for males and 34.9 years for females.<sup>8</sup> This suggests that few young people are pursuing Apprenticeship opportunities in high school or immediately following high school graduation. Through the Pathways to STEM Apprenticeship grants, we seek to change this pattern in participating States.

Pathways to STEM Apprenticeship grants will fund State-level efforts that support local or regional approaches to establishing Apprenticeship programs for high school CTE Students or that support efforts to implement or expand coordinated Apprenticeship programming for high school CTE Students. Such efforts may include, for example, multi-State consortia that may be most advantageous in areas where States share an interest in developing Apprenticeships in the same industry sectors and where employers have a presence in those States. We anticipate that States also may identify and address legal or policy barriers to increasing the number of high school CTE Students who enroll in Apprenticeship programs, such as minimum age requirements and safety or liability regulations that limit participation of high school students.

<sup>6</sup>Lerman, Robert I. Expanding Apprenticeship Opportunities in the United States. The Hamilton Project. (June 2014). Retrieved from: [www.hamiltonproject.org/assets/legacy/files/downloads\\_and\\_links/policies\\_address\\_poverty\\_in\\_america\\_full\\_book.pdf#page=81](http://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/policies_address_poverty_in_america_full_book.pdf#page=81).

<sup>7</sup>ApprenticeshipUSA Toolkit, U.S. Department of Labor. (2017). Retrieved from: [Apprenticeshipusa.workforcegps.org/-/media/WorkforceGPS/21stcenturyapprenticeship/Files/Apprenticeship-ROI-Research-and-Statistics.ashx?la=en](http://Apprenticeshipusa.workforcegps.org/-/media/WorkforceGPS/21stcenturyapprenticeship/Files/Apprenticeship-ROI-Research-and-Statistics.ashx?la=en).

<sup>8</sup>Reed, D. et al. An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States. Washington, DC: Mathematica Policy Research. (2012). Retrieved from: <https://www.mathematica-mpr.com/our-publications-and-findings/publications/an-effectiveness-assessment-and-costbenefit-analysis-of-registered-apprenticeship-in-10-states>.

We require that projects be carried out in partnership with at least one employer and at least one postsecondary partner, such as a State Agency for Higher Education or one or more Postsecondary Educational Institutions. Because employers identify the skills that apprentices must learn, sponsor apprentices, pay wages, and provide on-the-job training, collaboration with employers is critical in developing and sustaining Apprenticeship pathways. Involving postsecondary partners, such as a State Agency for Higher Education or one or more Postsecondary Educational Institutions is essential because most of the related CTE instruction provided in an Apprenticeship is developed and delivered by such entities.<sup>9</sup> They also may be helpful in making Apprenticeship programs more attractive to high school students by embedding dual credit opportunities in an Apprenticeship program so that high school students who decide against continuing in an Apprenticeship after graduation will have other postsecondary options. Moreover, in some States, the community and technical college system has taken a lead role in developing and expanding Apprenticeship opportunities as well as in providing postsecondary credit for knowledge acquired during an Apprenticeship that counts towards a degree or other credential.<sup>10</sup>

High schools can also be an important partner in expanding Apprenticeship opportunities through curriculum alignment, program articulation, and other activities designed to ensure that CTE Students are well positioned to enter and succeed within Apprenticeships. Well-aligned programs at the high school level may allow CTE Students to complete Apprenticeships at a faster pace or at a younger age than their adult peers. When an Apprenticeship is aligned to fit within, or be a natural extension of, a CTE program starting in high school, students may be better positioned to enter an Apprenticeship and persist once enrolled.

In addition, States may also wish to partner with State workforce development agencies, local workforce

<sup>9</sup>Lerman, et. al., "The Benefits and Challenges of Registered Apprenticeship: The Sponsors' Perspective." The Urban Institute. (2009). Retrieved from: [www.urban.org/sites/default/files/publication/30416/411907-The-Benefits-and-Challenges-of-Registered-Apprenticeship-The-Sponsors-Perspective.PDF](http://www.urban.org/sites/default/files/publication/30416/411907-The-Benefits-and-Challenges-of-Registered-Apprenticeship-The-Sponsors-Perspective.PDF).

<sup>10</sup>Hanks, Angela and Gurwitz, Ethan, "How States Are Expanding Apprenticeship." Center for American Progress. (February 2016). Retrieved from: [www.luminafoundation.org/files/resources/how-states-are-expanding-apprenticeship.pdf](http://www.luminafoundation.org/files/resources/how-states-are-expanding-apprenticeship.pdf).

development boards, nonprofit and community organizations, chambers of commerce, and other industry organizations. State and local workforce development agencies may have existing relationships with employers and programming related to apprenticeships. Other organizations, including nonprofit and community organizations, may also have relationships with employers and may be able to assist in offering other supports, such as assisting CTE Students participating in Apprenticeships in purchasing work clothing or paying for transportation costs.

We further require that the Apprenticeship programs developed by grantees be Competency-Based Apprenticeships, rather than time-based, so that participants progress through the program by demonstrating mastery of the essential knowledge and skills taught in an Apprenticeship, rather than by completing a minimum number of hours. Competency-Based Apprenticeships have several advantages over time-based programs. They support accelerated program completion for some individuals, while also accommodating those individuals, which may include some persons with disabilities, who may need more time to master a skill than a time-based program may allow. Students who have developed knowledge and skills through prior educational or work experience, such as the completion of a related high school or postsecondary CTE course, could enter a competency-based program with advanced standing. Organizing an Apprenticeship program around job functions and competencies also benefits an employer because it enables apprentices to become fully proficient in at least one relevant job function, making them more productive employees more swiftly than would occur in a time-based program.<sup>11</sup>

We also include an absolute priority that requires that projects be designed to improve student achievement or educational outcomes through the creation or expansion of partnerships to give students access to Apprenticeships in STEM fields, including Computer Science. Connecting high school CTE Students with career opportunities in industries in STEM sectors, such as cybersecurity, information technology, advanced manufacturing, and health care, is a key focus of this initiative. Equipping more students with recognized postsecondary credentials in

<sup>11</sup>Jones, D.A. and Lerman, R. Starting a Registered Apprenticeship Program: A Guide for Employers or Sponsors. The Urban Institute. (2017).

STEM is essential to promoting innovation and economic growth. According to the Bureau of Labor Statistics, in May 2016, there were 8.8 million STEM jobs, representing 6.3 percent of U.S. employment.<sup>12</sup> Half of all STEM jobs do not require a four-year college degree; however, many of these jobs require specialized training. STEM jobs that require less than a bachelor's degree pay higher wages than non-STEM jobs with similar educational requirements.<sup>13</sup> For example, an analysis of 2013 entry-level job postings by Burning Glass Technologies found that the average advertised entry-level salary for jobs requiring a sub-baccalaureate credential was \$47,856 for STEM jobs and \$37,424 for non-STEM jobs.<sup>14</sup> Apprenticeships that begin in high school can be used as a tool to help CTE Students learn the skills needed to prepare for these STEM jobs without incurring the full costs of traditional postsecondary education or training.

Applicants are encouraged to align and leverage various sources of funds, including State and local funds as well as other Federal funding streams, for activities that supplement or complement their proposed projects. For example, an applicant could propose to use State leadership funds available to it under the Perkins Act to improve or develop new CTE courses that will be used for the related instruction component of an Apprenticeship or for professional development for the teachers or postsecondary instructors who will provide the related CTE instruction. Similarly, at the local level, funds available under the Workforce Innovation and Opportunity Act (WIOA) Title I Youth program may be used for pre-apprenticeship programs for youth who are eligible for the WIOA Title I Youth program. Applicants should note that selection criterion (a)(2) evaluates the extent to which a proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in 34 CFR 77.1(c)), using existing funding streams from other programs or policies supported by community, State, and Federal resources. Additionally, selection criterion (c)(3) assesses the potential for continued support of the

project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

**Priorities:** This notice contains one absolute priority and an invitational priority. The absolute priority is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published on March 2, 2018 (83 FR 9096) (Secretary's Supplemental Priorities).

**Absolute Priority:** For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this absolute priority.

The priority is:

*Promoting STEM Education, With a Particular Focus on Computer Science.*

Projects designed to improve student achievement or other educational outcomes in one or more of the following areas: Science, technology, engineering, math, or Computer Science. These projects must address the following priority area:

Creating or expanding partnerships between schools, local educational agencies, State educational agencies, businesses, not-for-profit organizations, or institutions of higher education to give students access to internships, apprenticeships, or other work-based learning experiences in STEM fields, including Computer Science.

**Invitational Priority:** For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority any preference over other applications.

This priority is:

*Rural Local Educational Agencies (Rural LEAs).*

The Secretary is particularly interested in receiving applications that propose a State-wide or regional approach to increasing the number of high school CTE students who begin to participate in Apprenticeships in STEM fields, including Computer Science, during high school in LEAs that are eligible for assistance under the Small Rural School Achievement program or the Rural and Low-Income School program authorized under Title V, Part B of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act.

**Note:** Eligible applicants may determine whether a particular LEA is eligible for these

programs by referring to information on the Department's website at [www2.ed.gov/nclb/freedom/local/reap.html](http://www2.ed.gov/nclb/freedom/local/reap.html).

**Requirements:** We are establishing the following two program requirements and two application requirements for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

The program requirements are:

**Program Requirement 1—Partnership.**

A grantee must carry out a Pathways to STEM Apprenticeship grant in collaboration with—

(a) At least one employer in the State that has committed to implementing Apprenticeships; and

(b) One or more postsecondary partners, such as the State Agency for Higher Education, or one or more Postsecondary Educational Institutions.

**Program Requirement 2—Implementation of a Comprehensive STEM Apprenticeship Pathway Strategy for High School CTE Students.**

A grantee must carry out a comprehensive Pathways to STEM Apprenticeship grant strategy that seeks to increase the number of CTE Students who participate in Competency-Based Apprenticeships while enrolled in high school.

(a) Such strategies must be designed to—

(1) Give State, regional, or local employers a leadership role in designing, expanding, and implementing the strategy; and

(2) Address barriers to participation in Competency-Based Apprenticeships for Special Populations, which may include:—

(A) Individuals with disabilities, including students with disabilities receiving services under Section 504 of the Rehabilitation Act of 1973 (Section 504) (commonly referred to as Section 504-only students), students with disabilities identified as a Child with a Disability under section 602(3) of the Individuals with Disabilities Education Act (IDEA), and individuals with any disability defined in section 3 of the Americans with Disabilities Act of 1990;

(B) Individuals from economically disadvantaged families, including foster children;

(C) Individuals preparing for occupations or fields of work, including careers in computer science, technology, and other current and emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work;

<sup>12</sup> The Economics Daily, U.S. Bureau of Labor and Statistics. (July 6, 2017). Retrieved from: [www.bls.gov/opub/td/2017/8-point-8-million-science-technology-engineering-and-mathematics-stem-jobs-in-may-2016.htm?view\\_full](http://www.bls.gov/opub/td/2017/8-point-8-million-science-technology-engineering-and-mathematics-stem-jobs-in-may-2016.htm?view_full).

<sup>13</sup> Ibid.

<sup>14</sup> Real-Time Insight into the Market for Entry-Level STEM Jobs, Burning Glass Technologies (2104). Retrieved from: [www.burning-glass.com/wp-content/uploads/Real-Time-Insight-Into-The-Market-For-Entry-Level-STEM-Jobs.pdf](http://www.burning-glass.com/wp-content/uploads/Real-Time-Insight-Into-The-Market-For-Entry-Level-STEM-Jobs.pdf).

(D) Single parents, including single pregnant women;

(E) Displaced homemakers; and  
(F) Individuals with limited English proficiency.

(b) Such strategies may include—

(1) Providing technical assistance to entities such as LEAs, postsecondary educational institutions, and employers;

(2) Coordinating State-level or multi-State-level efforts to expand Competency-Based Apprenticeship opportunities for high school CTE Students, such as through coordination with other entities, such as a State Apprenticeship agency, or with industry and labor organizations and businesses to develop Competency-Based Apprenticeship programming in new sectors or industries;

(3) Developing or supporting the development of curricula that can be used for the related CTE instruction component of Competency-Based Apprenticeship programs;

(4) Providing support for professional development for teachers, postsecondary instructors, employers, training providers, and others to promote the development and implementation of new Competency-Based Apprenticeship opportunities;

(5) Supporting the development and implementation of articulation agreements and other processes to award postsecondary credit for the completion of CTE courses and Competency-Based Apprenticeship programs, such as dual credit and transcribed credit;

(6) Providing information about Competency-Based Apprenticeship opportunities to the public, including to students and their families;

(7) Providing subgrants to LEAs and postsecondary educational institutions to assist in creating or expanding opportunities for CTE Students to participate in Competency-Based Apprenticeships beginning in high school; and

(8) Other activities that are designed to increase opportunities for high school CTE Students to participate in Competency-Based Apprenticeships beginning in high school.

**Note:** In addition, under 34 CFR 75.591, all grantees must cooperate in any evaluation of the program conducted by the Department.

The application requirements are:

*Application Requirement 1—Letter of Commitment from Postsecondary Partner.*

An applicant must identify its postsecondary partner or partners, such as a State Agency for Higher Education, or a Postsecondary Educational Institution or Institutions, in its

application and include a letter of commitment from each postsecondary partner.

*Application Requirement 2—Employer Partner Letter of Commitment.*

An applicant must include a letter of commitment from each employer partner.

*Definitions:*

The definitions of Career and Technical Education, Institution of Higher Education, and Postsecondary Educational Institution and Special Populations are from section 3 of the Perkins Act (20 U.S.C. 2301 *et seq.*). The definition of Computer Science is from the Secretary's Supplemental Priorities. The definition of Apprenticeship is from Executive Order 13801. We are establishing the definitions for Apprenticeship, Career and Technical Education Student, Competency-Based Apprenticeship, and State Agency for Higher Education for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

*Apprenticeship* means an arrangement that includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills.

*Career and Technical Education* means organized educational activities that—

(a) Offer a sequence of courses that—

(1) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(2) Provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(3) May include prerequisite courses (other than a remedial course) that meet the requirements of this definition; and

(b) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

*Career and Technical Education (CTE) Student* means a student who is enrolled or has been enrolled in at least one CTE course.

*Competency-Based Apprenticeship* means an Apprenticeship program that enables apprentices to progress through

and complete the program by demonstrating mastery of the knowledge and skills taught in the program, rather than complete a minimum number of work or instructional hours.

*Computer Science* means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications.

Computer Science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information.

In addition to coding, the expanding field of Computer Science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer Science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets, or presentation software; or using computers in the study and exploration of unrelated subjects.

*Institution of Higher Education (IHE)* means—

(a) An educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of pre-accreditation status, and the Secretary of Education has determined that there is satisfactory assurance that the institution will meet

the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4), and (5) of subsection (a) of this definition; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this definition, admits as regular students individuals—

(A) Who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) Who will be dually or concurrently enrolled in the institution and a secondary school.

*Postsecondary Educational Institution* means—

(a) An IHE that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(b) A tribally controlled college or university; or

(c) A nonprofit educational institution offering certificate or Apprenticeship programs at the postsecondary level.

*Special Populations* means—

(a) Individuals with disabilities;

(b) Individuals from economically disadvantaged families, including foster children;

(c) Individuals preparing for non-traditional fields;

(d) Single parents, including single pregnant women;

(e) Displaced homemakers; and

(f) Individuals with limited English proficiency.

*State Agency for Higher Education* means any State agency, board, commission, or other entity that coordinates or governs public institutions of higher education in a State.

*Waiver of Proposed Rulemaking:*

Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed definitions and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition to address high school CTE Apprenticeships under section 114(c)(1) of the Perkins Act, and therefore qualifies for this exemption. In order to ensure timely grant awards, the

Secretary has decided to forgo public comment on the definitions and requirements under section 437(d)(1) of GEPA. The definitions and requirements will apply to the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

*Program Authority:* 20 U.S.C. 2324.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) Secretary's Supplemental Priorities.

**Note:** The regulations in 34 CFR part 86 apply to IHEs only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* \$3,000,000.

*Estimated Range of Awards:* \$500,000–\$750,000 for one 36-month project period.

*Estimated Average Size of Awards:* \$600,000.

*Estimated Number of Awards:* 5.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

Applicants under this competition are required to provide detailed budget information for each year of the proposed project and for the total grant.

## III. Eligibility Information

1. *Eligible Applicants:* The following entities are eligible to apply under this competition:

(a) A State board designated or created consistent with State law as the sole State agency responsible for the administration of CTE in the State or for the supervision of the administration of CTE in the State.

(b) A consortium of entities, individually eligible under (a) above.

**Note:** Eligible applicants proposing to apply for funds as a consortium must comply with the regulations in 34 CFR 75.127 through 75.129, which address group applications.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-not-Supplant:* This program is subject to supplement-not-supplant funding requirements. In accordance with section 311(a) of the Perkins Act, 20 U.S.C. 2391(a), funds under this program may not be used to supplant non-Federal funds used to carry out CTE activities. Further, the prohibition against supplanting also means that grantees will be required to use their negotiated restricted indirect cost rates under this program. (34 CFR 75.563)

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: LEAs, postsecondary educational institutions, or State educational agencies. The grantee may also award subgrants to entities it has identified in an approved application.

## IV. Application and Submission Information

### 1. Application Submission

*Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003), and available at [www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf](http://www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf).

### 2. Submission of Proprietary

*Information:* Given the types of projects that may be proposed in applications for the Pathways to STEM Apprenticeship grants competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we may make successful applications available to the public, you may wish to request confidentiality of business information. Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about

Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

4. *Funding Restrictions*: Grant funds may not be used for wages or salaries of students in Apprenticeships. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 35 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Calibri, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply*: The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line “Intent to Apply,” and include the applicant’s name and a contact person’s name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

## V. Application Review Information

1. *Selection Criteria*: The selection criteria for this program are from 34 CFR 75.210. The maximum score for all of the selection criteria is 100 points. The

maximum score for each criterion is indicated in parentheses. In addressing the criteria, applicants are encouraged to make explicit connections to the priorities and requirements listed elsewhere in this notice. The selection criteria for this competition are as follows:

(a) *Quality of the project design*. (45 points)

The Secretary considers the quality of the project design. In determining the quality of the project design for the proposed project, the Secretary considers—

(1) The likelihood that the proposed project will result in system change or improvement. (up to 15 points)

(2) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in 34 CFR 77.1(c)), using existing funding streams from other programs or policies supported by community, State, and Federal resources. (up to 15 points)

(3) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (up to 15 points)

(b) *Quality of the management plan*. (25 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(c) *Adequacy of resources*. (30 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers—

(1) The extent to which the budget is adequate to support the proposed project. (up to 10 points)

(2) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (up to 10 points)

(3) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (up to 10 points)

2. *Review and Selection Process*: We remind potential applicants that in reviewing applications in any

discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant’s use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions*: Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System*: If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR

part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

## VI. Award Administration Information

1. *Award Notices*: If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements*: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements*: Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting*: (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must

submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.117. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to [www.ed.gov/fund/grant/apply/appforms/appforms.html](http://www.ed.gov/fund/grant/apply/appforms/appforms.html).

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case, the Secretary establishes a data collection period.

5. *Performance Measures*: Pursuant to the Government Performance and Results Act of 1993, the Department has established the following performance measures that it will use to evaluate the overall effectiveness of the grantee's project, as well as the Pathways to STEM Apprenticeship grant program as a whole:

(a) The total number and percentage of CTE Students enrolled in project activities during the grant period, including CTE Students in Apprenticeships funded under this project and other grant activities.

(b) The total number and percentage of CTE Students enrolled in high school and participating in Apprenticeships funded under this project.

(c) The total number and percentage of CTE Students enrolled in high school and participating in Apprenticeships funded under this project who are identified as members of a Special Population.<sup>15</sup>

(d) The total number and percentage of CTE Students enrolled in high school and participating in Apprenticeships funded under this project who complete high school.

(e) The total number and percentage of CTE Students enrolled in high school and participating in Apprenticeships funded under this project who earn postsecondary credits during enrollment in the project.

## VII. Other Information

*Accessible Format*: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotope, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION**

<sup>15</sup> With regard to individuals with disabilities, this would include students with disabilities receiving services under Section 504 of the Rehabilitation Act of 1973 (Section 504) (commonly referred to as Section 504-only students), and students with disabilities identified as a child with a disability under section 602(3) of the IDEA.

**CONTACT**. If you use a TDD or a TTY, call the FRS, toll free, at 1-800-877-8339.

*Electronic Access to This Document*: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: [www.gpo.gov/fdsys](http://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 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](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 15, 2018.

**Michael E. Wooten**,

*Acting Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2018-10671 Filed 5-17-18; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No. ED-2018-ICCD-0059]

### Agency Information Collection Activities; Comment Request; Graduate Assistance in Areas of National Need (GAANN) Performance Report

**AGENCY**: Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION**: Notice.

**SUMMARY**: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

**DATES**: Interested persons are invited to submit comments on or before July 17, 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-0059. 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 216-34, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Rebecca Ell, 202-453-6348.

**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:* Graduate Assistance in Areas of National Need (GAANN) Performance Report.

*OMB Control Number:* 1840-0748.

*Type of Review:* A revision of an existing information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments; Private Sector.

*Total Estimated Number of Annual Responses:* 291.

*Total Estimated Number of Annual Burden Hours:* 3,274.

*Abstract:* GAANN grantees must submit a performance report annually. In addition, grantees are required to submit a supplement to the final performance report two years after submission of their final report. The

reports are used to evaluate grantee performance. Further, the data from the reports will be aggregated to evaluate the accomplishments and impact of the GAANN Program as a whole. Results will be reported to the Secretary in order to respond to GPRA requirements.

Minor changes have been made to the collection to clarify the intent of the questions and update the areas of national need. These changes did not alter the anticipated burden hours associated with this collection. There was a small increase in total burden hours based on the recalculation of the burden on public respondents.

Dated: May 15, 2018.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2018-10648 Filed 5-17-18; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Amended Record of Decision for the Management of Cesium and Strontium Capsules at the Hanford Site, Richland, Washington

**AGENCY:** Department of Energy.

**ACTION:** Amended record of decision.

**SUMMARY:** This is an amendment to the U.S. Department of Energy's (DOE) Record of Decision for the *Final Tank Closure and Waste Management Environmental Impact Statement for the Hanford Site, Richland, Washington* (DOE/EIS-0391, December 2012) (TC&WM EIS). From 1974 to 1985, cesium and strontium were recovered from high-level radioactive waste stored in underground tanks at the Hanford Site, packed in corrosion-resistant capsules, and placed in storage under water at Hanford's Waste Encapsulation and Storage Facility (WESF). The TC&WM EIS evaluated storage, treatment, and final disposition of these capsules and their contents. This amended Record of Decision (ROD) announces DOE's decision to move the capsules from wet storage at WESF to a new dry storage facility.

**ADDRESSES:** For copies of this amended ROD, the first ROD, the TC&WM EIS, or any related NEPA documents, please contact: Ms. Mary Beth Burandt, NEPA Document Manager, U.S. Department of Energy, Office of River Protection, P.O. Box 1178, Richland, Washington 99352, 1-509-372-8828, [mary\\_e\\_burandt@orp.doe.gov](mailto:mary_e_burandt@orp.doe.gov).

This amended ROD, the first ROD, and the TC&WM EIS are also available

on DOE's NEPA website at [www.energy.gov/nepa](http://www.energy.gov/nepa) and on Hanford's website at <http://www.hanford.gov/index.cfm?page=1117&>.

**FOR FURTHER INFORMATION CONTACT:** For further information about the TC & WM EIS and the RODs, contact Ms. Burandt, as listed above.

For general information on DOE's NEPA process, contact: Mr. Brian Costner, Acting Director, Office of NEPA Policy and Compliance, GC-54, U.S. Department of Energy, Washington, DC 20585-0103, Telephone: (202) 586-4600, or leave a message at 1-800-472-2756, or email [askNEPA@hq.doe.gov](mailto:askNEPA@hq.doe.gov).

## SUPPLEMENTARY INFORMATION:

### Background

The cesium and strontium capsules were produced at Hanford during the 1970s and 1980s. Cesium and strontium isotopes were separated from other radioactive tank waste, converted to cesium chloride and strontium fluoride, and then encapsulated for long-term storage. There are 1,335 cesium capsules and 601 strontium capsules stored under water in a pool at WESF.

### Synopsis of the TC&WM EIS and the First Record of Decision

The final TC&WM EIS was issued in December 2012. It analyzed a number of alternatives for retrieving waste from Hanford's single-shell tanks, treating that waste, and closing the tanks. It also analyzed alternatives for managing other types of wastes at Hanford, and for decommissioning the Fast Flux Test Facility.<sup>1</sup> Three alternatives for managing the cesium and strontium capsules now stored in WESF were evaluated: (1) The no action alternative, which was continued storage in WESF; (2) shipment of the capsules from WESF to new facilities where the capsules would be opened and their contents made into a slurry for processing in the Waste Treatment Plant; and (3) transfer of the capsules from WESF to a new interim dry storage facility where they would remain until their contents were treated and sent to a geologic repository. The third alternative was included in the final EIS in response to comments from the state of Oregon and the Yakama Nation.

The first ROD, published on December 13, 2013 (78 FR 75913),

<sup>1</sup> The alternatives analyzed in the TC&WM EIS are described in detail in Chapter 2 of the final EIS. Chapter 2 also identifies DOE's preferred alternatives for tank closure, decommissioning of the Fast Flux Test Facility, and waste management on pages 2-321 through 2-322. The final EIS also states that DOE would not make any decision regarding the final disposition of the capsules after treatment based on this EIS. (Final TC&WM EIS at page 1-15.)



contained no decisions regarding the interim storage, treatment, or final disposition of the capsules or their contents.<sup>2</sup> Accordingly, the capsules continue to be stored in WESF.

#### Events Since Issuance of the First Record of Decision

Since issuance of the ROD, completion of the Waste Treatment Project has been delayed and WESF is experiencing degradation of key structures and safety systems, including the concrete walls of the storage pool due to gamma radiation emitted by the capsules. The degradation of WESF has increased the risk that a beyond design basis natural event (e.g. an earthquake) could cause the walls to fail, resulting in loss of the water that provides shielding of the capsules. Due to this concern and the realization that the capsules would likely need to stay in WESF for a period longer than its design life, DOE has concluded that interim dry storage of the capsules in a new facility would significantly reduce the potential risk of onsite radiological exposures and airborne releases from a failure of WESF.

#### Preferred Alternative for Interim Storage of the Capsules

Because of the delays in completing the Waste Treatment Plant and the ongoing degradation of WESF, DOE has now concluded that its preferred alternative for interim storage of the capsules is in a new dry storage facility. This is also the environmentally preferred alternative for interim storage of the capsules as it would reduce the risks posed by a failure of WESF.

#### Decision

DOE evaluated the transfer of the cesium and strontium capsules from WESF to dry storage in Appendix E of the final TC&WM EIS (Section E 1.2.3.4.5.) in response to comments from the state of Oregon's Department of Energy and the Yakama Nation (Final TC&WM EIS at 3–29 to 3–30 and 3–437 to 3–440). This evaluation identified the potential impacts from construction and operation of a new dry storage facility in the 200-East Area of Hanford, which would be deactivated upon final disposition of the capsules. These impacts included those from the construction of an approximately 6,500-square-meter (70,000-square-foot) dry storage facility and disturbance of

13,000-square-meters (140,000-square-foot) of ground. They also included the operational impacts from retrieval of the capsules from WESF and their placement into containers; transfer of the containers to the new storage facility; and maintaining and monitoring of the facility for up to 145 years (the maximum storage time under all of the Tank Closure Alternatives analyzed in the TC & WM EIS). The potential impacts from deactivation of the dry storage facility included those resulting from putting the facility into a stable configuration after removal of the capsules for treatment, disposition, or both.

The capsules would be transported and stored in casks similar to the casks analyzed in the TC&WM EIS; they would be passively ventilated to dissipate heat produced by radioactive decay within the capsules. The current design of the dry storage facility, which would be located approximately 400 meters (440 yards) from the existing WESF, calls for a storage pad of 753 square meters (8,100 square feet) within the facility on which the casks would be placed. The new facility would be a “dangerous waste management unit” under the Hanford Facility Resource Conservation and Recovery Act (RCRA) Permit; it would be added to the permit through a modification issued by the state of Washington pursuant to its delegated RCRA authority.

The potential environmental impacts from interim dry storage of the capsules would be less than those identified in the TC&WM EIS for this alternative, primarily due to the decay of radioactivity in the capsules. In June 2017, DOE estimated that the radioactivity in the capsules had decayed to 46 million curies; the final TC&WM EIS assumed the capsules contained about 68 million curies.

DOE's decision is to continue interim storage of the capsules, but in a new dry storage facility rather than in WESF. DOE is not making any decisions at this time on treatment or final disposition of the cesium and strontium capsules.

#### Mitigation Measures

Moving the capsules from WESF to a dry storage facility will mitigate potential impacts resulting from a potential failure of WESF. This decision will allow DOE to eliminate the potential for releases to groundwater and the atmosphere from a structural failure of WESF.

Issued in Washington, DC, on May 14, 2018.

Anne Marie White,

Assistant Secretary for Environmental Management.

[FR Doc. 2018–10643 Filed 5–17–18; 8:45 am]

BILLING CODE 6450–01–P

#### DEPARTMENT OF ENERGY

[OE Docket No. EA–452]

#### Application To Export Electric Energy; Matador Power Marketing, Inc.

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Matador Power Marketing, Inc. (Matador or Applicant) has applied for authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before June 18, 2018.

**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to [Electricity.Exports@hq.doe.gov](mailto:Electricity.Exports@hq.doe.gov), or by facsimile to 202–586–8008.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On May 1, 2018, DOE received an application from Matador for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities.

In its application, Matador states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that the Applicant proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary

<sup>2</sup>The first ROD noted that it “is the first in a series of RODs that DOE intends to issue pursuant to the *Final TC&WM EIS*.” (78 FR 75918.) It also stated that DOE was “not deciding on treatment of the cesium and strontium capsules in this ROD.” (*Id.*)



agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

*Procedural Matters:* Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Matador's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA-452. An additional copy is to be provided to both Ruta Kalvaitis Skučas, Pierce Atwood LLC, 1875 K St. NW, Suite 700, Washington, DC 20006 and Diana Stoica, Matador Power Marketing, Inc., 523 Soudan Avenue, Toronto, ON M4S 1X1.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at <http://energy.gov/node/11845>, or by emailing Angela Troy at [Angela.Troy@hq.doe.gov](mailto:Angela.Troy@hq.doe.gov).

Issued in Washington, DC, on May 10, 2018.

**Christopher Lawrence,**

*Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2018-10642 Filed 5-17-18; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG18-87-000.  
*Applicants:* Pratt Wind, LLC.  
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Pratt Wind, LLC.  
*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-5991.  
*Comments Due:* 5 p.m. ET 6/4/18.  
*Docket Numbers:* EG18-88-000.  
*Applicants:* Stoneray Power Partners, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Stoneray Power Partners, LLC.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6023.  
*Comments Due:* 5 p.m. ET 6/4/18.  
*Docket Numbers:* EG18-89-000.  
*Applicants:* Copenhagen Wind Farm, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Copenhagen Wind Farm, LLC.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6033.  
*Comments Due:* 5 p.m. ET 6/4/18.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER18-1581-000.  
*Applicants:* Tucson Electric Power Company.

*Description:* Compliance filing: Order No. 842 Compliance Filing to be effective 5/15/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-5011.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1582-000.  
*Applicants:* UNS Electric, Inc.  
*Description:* Compliance filing: Order No. 842 Compliance Filing to be effective 5/15/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-5012.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1584-000.  
*Applicants:* Mississippi Power Company.

*Description:* Request for Waiver of MRA Cost Based Tariff Volume No. 1 for Period I of Mississippi Power Company.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-5999.  
*Comments Due:* 5 p.m. ET 6/4/18.  
*Docket Numbers:* ER18-1586-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2018-05-14 SA 3114 Walnut Bend Solar-EAI GIA (J552) to be effective 4/30/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6017.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1587-000.  
*Applicants:* Tyr Energy, LLC.  
*Description:* § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 5/15/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6022.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1589-000.  
*Applicants:* Monongahela Power Company, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Monongahela Power Company submits OIA SA No. 4717 to be effective 7/13/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6041.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1590-000.  
*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Revisions to Extend Tariff Administration between SPP and SPA through 07/31/2018 to be effective 4/1/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6042.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1592-000.  
*Applicants:* West Penn Power Company, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: West Penn Power Company submits OIA SA No. 4976 to be effective 7/13/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6046.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1593-000.  
*Applicants:* Avista Corporation.

*Description:* Compliance filing: Avista Corp OATT Order 842 Compliance Filing to be effective 5/15/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6049.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1594-000.  
*Applicants:* Public Service Company of Colorado.

*Description:* Compliance filing: OATT—Order No. 842 Compliance—LGIP—SGIP to be effective 5/15/2018.

*Filed Date:* 5/14/18.  
*Accession Number:* 20180514-6069.  
*Comments Due:* 5 p.m. ET 6/4/18.

*Docket Numbers:* ER18-1597-000.  
*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing; Original ISA, SA No. 5072; Queue No. AB2–129 to be effective 4/16/2018.

*Filed Date:* 5/14/18.

*Accession Number:* 20180514–6094.

*Comments Due:* 5 p.m. ET 6/4/18.

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: May 14, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–10612 Filed 5–17–18; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status**

Upstream Wind Energy LLC .....	EG18–40–000
New Mexico Wind, LLC .....	EG18–41–000
Wy’East Solar, LLC .....	EG18–43–000
Carlsbad Energy Center LLC .....	EG18–44–000
ColGreen North Shore, LLC .....	EG18–45–000
Panoche Valley Solar, LLC .....	EG18–46–000
Elk City Renewables II, LLC .....	EG18–47–000
Techren Solar II LLC .....	EG18–48–000
Parry Energy Storage, LP .....	FC18–1–000
Elmira Energy Storage, LP .....	FC18–2–000

Take notice that during the month of April 2018, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission’s regulations. 18 CFR 366.7(a) (2017).

Dated: May 14, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–10614 Filed 5–17–18; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. EL18–145–000]

**Notice of Complaint: Tilton Energy LLC v. PJM Interconnection, LLC**

Take notice that on May 11, 2018, pursuant to sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824e, 825e, and 825h (2012) and Rule 206 of the Federal Energy Regulatory Commission’s (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2017), Tilton Energy LLC (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (Respondent) requesting that the Commission direct Respondent to reverse its determination to terminate the Tilton Pseudo-Tie into the PJM balancing authority, as more fully explained in the complaint.

Tilton Energy LLC certifies that a copy of the Complaint was served on PJM.

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 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents’ answer and all interventions, or protests must be filed on or before the comment date. The Respondents’ answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission’s Public Reference Room in Washington, DC. There is an “eSubscription” link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please

email [FERCOnlineSupport@ferc.gov](mailto: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 May 31, 2018.

Dated: May 14, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018–10617 Filed 5–17–18; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. ER18–1577–000]

**Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Thunder Spirit Wind, LLC**

This is a supplemental notice in the above-referenced proceeding of Thunder Spirit Wind, LLC’s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 4, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: May 14, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018-10615 Filed 5-17-18; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Number:* PR18-48-000.  
*Applicants:* Worsham-Steed Gas Storage, LLC.

*Description:* Tariff filing per 284.123(b),(e)/: Notice of Non-Material Change in Ownership (Docket No. PR17-66-000 Compliance).

*Filed Date:* 5/8/18.

*Accession Number:* 201805085121.

*Comments/Protests Due:* 5 p.m. ET 5/29/18.

*Docket Number:* PR18-49-000.

*Applicants:* Hill-Lake Gas Storage, LLC.

*Description:* Tariff filing per 284.123(b),(e)/: Notice of Non-Material Change in Ownership (Docket No. PR02-8-000 Compliance).

*Filed Date:* 5/8/18.

*Accession Number:* 201805085136.

*Comments/Protests Due:* 5 p.m. ET 5/29/18.

*Docket Numbers:* RP15-1022-000.

*Applicants:* Alliance Pipeline L.P.

*Description:* Report Filing: Settlement Recourse Rate Refund Report.

*Filed Date:* 5/10/18.

*Accession Number:* 20180510-5077.

*Comments Due:* 5 p.m. ET 5/22/18.

*Docket Numbers:* RP18-811-000.

*Applicants:* Columbia Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Columbia LXP Amendments to be effective 1/1/2018.

*Filed Date:* 5/10/18.

*Accession Number:* 20180510-5102.

*Comments Due:* 5 p.m. ET 5/22/18.

*Docket Numbers:* RP18-812-000.

*Applicants:* Columbia Gulf Transmission, LLC.

*Description:* § 4(d) Rate Filing: Columbia Gulf RXP Amendment and Agreement to be effective 1/1/2018.

*Filed Date:* 5/10/18.

*Accession Number:* 20180510-5103.

*Comments Due:* 5 p.m. ET 5/22/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: May 14, 2018.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2018-10613 Filed 5-17-18; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0619; FRL-9978-22]

### Agency Information Collection Activities; Proposed Renewal of an Existing Collection; Comment Request; Correction

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

**ACTION:** Notice; correction.

**SUMMARY:** EPA issued a notice in the **Federal Register** of May 8, 2018, concerning EPA's planned submission of an existing Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and renewed approval under the Paperwork Reduction Act (PRA). The ICR, entitled: "Pesticide Program Public Sector Collections (FIFRA Sections 18 & 24(c))" and identified by EPA ICR No. 2311.03 and OMB Control No. 2070-0182, represents the renewal of an existing ICR that is scheduled to expire on October 31, 2018. As indicated in that document, EPA is soliciting comments on the ICR and the agency's estimated burden hour and costs for those information collection activities. EPA intended that document to open a 60 day comment period, but there was an error in the **DATES** section that indicated the comment period already closed on April 30, 2018. This document corrects that typographical error.

#### FOR FURTHER INFORMATION CONTACT:

Connie Hernandez, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 605-5190; email address: [hernandez.connie@epa.gov](mailto:hernandez.connie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### What does this correction do?

FR Doc. 2018-09774 published in the **Federal Register** of May 8, 2018 (83 FR 20182) (FRL-9973-40) is corrected in the **DATES** section to read as follows:

Comments must be received on or before July 9, 2018.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: May 14, 2018.

**Charlotte Bertrand,**

*Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2018-10694 Filed 5-17-18; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD****Notice of Request for Comment on FASAB Staff's Proposed Staff Implementation Guidance 6.1, Clarification of Paragraphs 40–41 of SFFAS 6, Accounting for Property, Plant, and Equipment, as amended**

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) staff have issued proposed Staff Implementation Guidance (SIG) 6.1, Clarification of Paragraphs 40–41 of SFFAS 6, *Accounting for Property, Plant, and Equipment*, as amended, for public comment.

The proposed SIG is available on the FASAB website at <http://www.fasab.gov/documents-for-comment/>. Copies can be obtained by contacting FASAB at (202) 512–7350.

FASAB staff requests comments on the proposal by May 31, 2018. Please respond if you agree or disagree with the SIG or foresee unintended consequences with its issuance. Respondents are encouraged to provide the reasons for their positions. Written comments should be sent to [fasab@fasab.gov](mailto:fasab@fasab.gov) or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW, Suite 1155, Washington, DC 20548.

**FOR FURTHER INFORMATION CONTACT:** Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

**Authority:** Federal Advisory Committee Act, Public Law 92–463.

Dated: May 14, 2018.

**Wendy M. Payne,**  
*Executive Director.*

[FR Doc. 2018–10663 Filed 5–17–18; 8:45 am]

**BILLING CODE 1610–02–P**

**FEDERAL COMMUNICATIONS COMMISSION****Federal Advisory Committee Act; Technological Advisory Council**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting.

**DATES:** Tuesday, June 12th, 2018 in the Commission Meeting Room, from 12:30 p.m. to 4 p.m.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; [Walter.Johnston@FCC.gov](mailto:Walter.Johnston@FCC.gov).

**SUPPLEMENTARY INFORMATION:** At the June 12th meeting, the FCC Technological Advisory Council will discuss progress on and issues involving its work program agreed to at its initial meeting on April 12th, 2018. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the internet from the FCC Live web page at <http://www.fcc.gov/live/>. The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by email: [Walter.Johnston@fcc.gov](mailto:Walter.Johnston@fcc.gov) or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 2–A665, 445 12th Street SW, Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may not be possible to fill.

Federal Communications Commission.

**Julius Knapp,**

*Chief, Office of Engineering and Technology.*

[FR Doc. 2018–10620 Filed 5–17–18; 8:45 am]

**BILLING CODE 6712–01–P**

**FEDERAL MARITIME COMMISSION**

[Docket No. 18–03]

**JC Horizon Ltd. v. China Shipping Container Lines Co. Ltd.; Notice of Filing of Complaint and Assignment**

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by JC Horizon Ltd., hereinafter “Complainant,” against China Shipping Container Lines Co. Ltd., hereinafter “Respondent.” Complainant states that it is an exporter of recycled materials. Complainant states that Respondent “. . . was a China-based ocean common carrier providing international services . . .” that merged with the company China Ocean Shipping Company to become the business known as COSCO Shipping in 2016.

Complainant states it utilized Respondent's services to transport “. . . 38 containers of Distillers Dried Grain . . .” from Los Angeles, CA to Huangpu, China under a Service Contract. Complainant states that Respondent did not deliver the cargo to Huangpu, China and instead unloaded the containers at Nansha, China and “. . . indefinitely [held] them there.” Complainant alleges that Respondent expected payment for detention and demurrage charges totaling to more than \$600,000.” The cargo was ultimately disposed of by Respondent after it was stored in Nansha for 287 days. Complainant entered in to arbitration with Respondents pursuant to a provision in their Service Contract and “. . . the panel issued an award in [Respondent's] favor.” Complainant alleges “[Respondent] has no basis for attempting to levy demurrage and detention charges incurred as a result of an intermediate offloading and delay docking at Nansha for a shipment that never reached its port of discharge/place of delivery.” Complainant also alleges that “the Service Contract [between the parties] does not permit [Respondent] to collect demurrage or detention charges from [Complainant] associated with the stopover at an interim location (Nansha).”

Complainant alleges Respondent “. . . has violated and continues to violate the following provisions of the Shipping Act:

“1. *46 U.S.C. 41104(2)(A)*: It is a violation of the Shipping Act for [Respondent] to provide service or attempt to impose any fees or charges that are not contained in a properly published tariff or executed service contract . . .

2. *46 U.S.C. 41104(4)(A)*: It is a violation of the Shipping Act for

[Respondent] to engage in unfair practices with respect to rates or charges under its tariff. . . .

3. *46 U.S.C. 41104(10)*: It is a violation of the Shipping Act for [Respondent] to unreasonably refuse to deal or negotiate . . .

4. *46 U.S.C. 41102(c)*: [Respondent] further violated the Shipping Act by failing to establish and enforce just and reasonable practices relating to the handling and delivery of property. . . .

5. *46 CFR 530.8(b)(12) and (c)(1)*: The regulations governing service contracts require that a service contract set forth all provisions of the contract and that terms may not be 'uncertain, vague or ambiguous'. . . .'

Complainant seeks an order for Respondent "to cease and desist from any further violations of the shipping Act, including any efforts to enforce the arbitration award or to collect any monies from Claimant. . . ." and other relief. The full text of the complaint can be found in the Commission's Electronic Reading Room at [www.fmc.gov/18-03/](http://www.fmc.gov/18-03/).

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by May 15, 2019, and the final decision of the Commission shall be issued by November 29, 2019.

**Rachel E. Dickon,**  
Secretary.

[FR Doc. 2018-10662 Filed 5-17-18; 8:45 am]

BILLING CODE 6731-AA-P

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Report of Selected Money Market Rates (FR 2420; OMB No. 7100-0357).

**DATES:** Comments must be submitted on or before July 17, 2018.

**ADDRESSES:** You may submit comments, identified by FR 2420, by any of the following methods:

- **Agency Website:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include OMB

number in the subject line of the message.

- **Fax:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove sensitive PII (personal identifiable information) at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public website at: <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to

collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal prior to giving final approval.

### Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

**Report title:** Report of Selected Money Market Rates.

**Agency form number:** FR 2420.

**OMB control number:** 7100-0357.

**Frequency:** Daily.

**Respondents:** Commercial banks, savings associations, U.S. branches and agencies of foreign banks, International Banking Facilities, and significant banking organizations representing entities actively participating in the federal funds and/or other money markets.

**Estimated number of respondents:** 99 commercial banks and savings associations, 84 U.S. branches and agencies of foreign banks, 82

International Banking Facilities, and 1 significant banking organization.

*Estimated average hours per response:* 1.8 commercial banks and savings associations, 1.8 U.S. branches and agencies of foreign banks, 1.0 International Banking Facilities, and 1.8 significant banking organization.

*Estimated annual burden hours:* 44,550 commercial banks and savings associations, 37,800 U.S. branches and agencies of foreign banks, 20,500 International Banking Facilities, and 450 significant banking organization.

*General description of report:* The FR 2420 is a transaction-based report that collects daily liability data on federal funds purchased, selected borrowings from non-exempt entities, Eurodollar transactions, and time deposits and certificates of deposits (CDs) from (1) domestically chartered commercial banks and savings associations that have \$18 billion or more in total assets as well as those that have total assets above \$5 billion but less than \$18 billion and meet the activity threshold, (2) U.S. branches and agencies of foreign banks with total third-party assets of \$2.5 billion or more, and (3) significant banking organizations that are active participants in money markets. The FR 2420 also collects daily data on Eurodollar transactions from International Banking Facilities (IBFs) of the above-referenced institutions.<sup>1</sup> The FR 2420 data are used in the publication of the effective federal funds rate (EFFR) and overnight bank funding rate (OBFR) and in analysis of current money market conditions.

*Proposed revisions:* The Board proposes to revise the FR 2420 by adding Selected Deposits (Part D) and removing Selected Borrowings from Non-Exempt Entities (Part AA). Other minor edits in the reporting instructions are proposed to improve clarity. The first report for the proposed revisions to FR 2420 would be as of October 1, 2018.

## Summary of Revisions

### 1. Addition of Selected Deposits (Part D)

The Board proposes adding a new section, Part D, to the FR 2420, intended to capture short-term wholesale unsecured deposits that are economically equivalent to federal funds purchased in Part A or Eurodollars in Part B. The primary target for this collection would be reporting institutions that, in recent

years, shifted deposits from branches in the Caribbean Islands<sup>2</sup> to the U.S., which has caused this borrowing to fall outside the scope of the current FR 2420. The proposed Part D would also collect data from institutions that have historically booked all or a portion of such deposits in their U.S. offices.

Since June 2016, some Eurodollar activity from Cayman and Nassau branches of foreign banks has shifted to U.S. branches of those banks, causing Eurodollar volume reported on the FR 2420 to decline significantly, obscuring vision into the wholesale funding market and reducing the robustness of the data used in calculating the OBFR. Federal Reserve staff are aware of at least roughly \$35 billion in overnight Eurodollar transactions that have moved from the Cayman Islands to New York. The motivation has been described as the simplification of corporate structure for the drafting of living wills. Accordingly, the Board proposes to add Part D to the FR 2420 to capture these short-term, wholesale, domestic deposits.

To capture the intended data, a selected deposit is defined as a deposit denominated in U.S. dollars, in an amount of \$1 million or more, that is issued in a U.S. office of the reporting institution on the report date. A selected deposit is a deposit issued with an original specified term to maturity of six or less days such that the dollar amount of the deposit is payable as follows:

(a) On a certain calendar date that is six or less days after the settlement date of the deposit, or

(b) At the end of a specified period of time that is six or less days after the settlement date of the deposit.

Selected deposits include deposits issued for which the terms were negotiated at arm's length on the report date, which have interest rates specified as part of the terms that were negotiated, with an original maturity of six or less days and are issued to either a personal or a non-personal counterparty.

Selected deposits exclude deposits that do not have a specified term to maturity and are payable immediately on demand and deposits that are issued as collateral for another transaction (e.g., a deposit issued as collateral for a loan).

The data elements collected for Selected Deposits are identical to the elements collected for Federal Funds Purchased (Part A) and Eurodollars (Part B), with the exception of 'office

identifier.' The reporting deadline is the same as the deadline for Parts A and B.

### 2. Removal of Selected Borrowings From Non-Exempt Entities (Part AA)

The Board proposes deleting Selected Borrowings from Non-Exempt Entities, Part AA, from the FR 2420 to offset additional reporting burden resulting from the proposal to add Part D. There are two additional reasons for the Board's proposed deletion. First, Part AA does not capture data currently used or expected to be used in the calculation of reference rates. Second, Part AA currently collects very little data and the Part AA instructions sometimes cause confusion among FR 2420 respondents. Currently, respondents are instructed to include borrowings from non-exempt entities in Part AA, and are also instructed to exclude deposits as defined in Regulation D (Section 204.2(a)(1)) from Part AA. However, borrowings from non-exempt entities are typically defined as deposits under Regulation D, which has caused confusion for respondents reporting data on Part AA and limited the amount of useful data captured on this part of the report form.

### 3. Data Elements and Reporting Requirements Applicable to All Parts of the FR 2420

The Board proposes some wording changes throughout the FR 2420 instructions to help clarify reporting expectations for respondents. As an example, the Board proposes to amend the definition of federal funds purchased applicable to the FR 2420 to explicitly exclude borrowings from a Federal Reserve Bank. While borrowings from Federal Reserve Banks were never meant to be included in the definition of federal funds purchased for the purpose of the FR 2420, respondents frequently reported such borrowings in Part A of the report form. Adding explicit instructions to exclude borrowings from Federal Reserve Banks from Part A of the FR 2420 should help to clarify the type of data to be reported. There are several other instances of these types of clarifications in the proposed FR 2420 instructions.

*Legal authorization and confidentiality:* The FR 2420 is authorized by section 11(a)(2) of the Federal Reserve Act, which authorizes the Board to require depository institutions to make such reports of their liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates (12 U.S.C. 248(a)(2)). The FR

<sup>1</sup> A selected borrowing from a non-exempt entity is an unsecured borrowing (an unsecured primary obligation undertaken by the reporting institution as a means of obtaining funds) in U.S. dollars from a counterparty that is a non-exempt entity as derived from Regulation D, Section 204.2(a)(vii).

<sup>2</sup> Caribbean islands includes the Cayman Islands and Nassau, Bahamas or any other location within the Caribbean if the majority of the responsibility for business decisions for that FBO branch reside at the U.S. branch of the foreign bank that reports on the FR 2420.

2420 is also authorized pursuant to section 7(c)(2) of the International Banking Act (IBA), which provides that Federal branches and agencies of foreign banks are subject to section 11(a) of the Federal Reserve Act as if they were a state member bank (12 U.S.C. 3105(c)(2)). Section 7(c)(2) of the IBA also provides that state-licensed branches and agencies of foreign banks are subject to the requirement in section 9 of the Federal Reserve Act that they file reports of condition with the appropriate Federal Reserve Bank (12 U.S.C. 324). The obligation to comply with the reporting requirements of FR 2420 is mandatory.

The individual financial institution information provided by each respondent would not be otherwise available to the public. The proposed revisions, as well as information currently collected, would be accorded confidential treatment under the authority of exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)). Exemption 4 protects from disclosure trade secrets and privileged or confidential commercial or financial information.

*Consultation outside the agency:* A representative group of large FR 2420 respondents was consulted in December 2016 to better understand the reasons banks were shifting Eurodollar deposits from Caribbean Islands to deposits at their U.S. branches. Additionally, large commercial banks were also consulted in late 2017 about the proposed changes to the FR 2420. The comments from the large FR 2420 respondents and the representative group were considered and incorporated into this proposal. Outreach was also done to the major federal funds and Eurodollar deposit brokers to better understand the extent to which new institutions would be required to report in the FR 2420. These brokers reported that there may be a few additional institutions, but that institutions actively negotiating deposits in their U.S. offices are the same institutions actively funding through Eurodollar deposits, or those that formerly were actively funding through Eurodollars. The banks consulted confirmed that the deposits intended to be captured in the new Part D could be an important wholesale funding source for reporting institutions. To ensure that the instructions have captured the key potential elements of transactions in this wholesale funding source, the characteristics listed for deposits reportable in the new Part D will be available for public comment.

Board of Governors of the Federal Reserve System, May 15, 2018.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2018-10669 Filed 5-17-18; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0154; Docket 2018-0053; Sequence 2]

#### Information Collection; Construction Wage Rate Requirements-Price Adjustment (Actual Method)

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal for the Construction Wage Rate Requirements-Price Adjustment (Actual Method). There are no changes to the existing information collection.

**DATES:** Submit comments on or before July 17, 2018.

**ADDRESSES:** The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to <http://www.regulations.gov> and follow the instructions on the site.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000-0154, Construction Wage Rate Requirements-Price Adjustment (Actual Method).

*Instructions:* All items submitted must cite Information Collection 9000-0154, Construction Wage Rate Requirements-Price Adjustment (Actual Method). Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please

check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail). This information collection is pending at the FAR Council. The Council will submit it to OMB within 60 days from the date of this notice.

**FOR FURTHER INFORMATION CONTACT:** Ms. Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or email [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Overview of Information Collection

###### *Description of the Information Collection*

1. *Type of Information Collection:* Revision/Renewal of a currently approved collection.
2. *Title of the Collection—* Construction Wage Rate Requirements-Price Adjustment (Actual Method).
3. *Agency form number, if any:—*N/A.

###### *Solicitation of Public Comment*

Written comments and suggestions from the public should address one or more of the following four points:

- (1) Evaluate whether the 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.

##### B. Purpose

Government contracting officers may include Federal Acquisition Regulation (FAR) clause 52.222-32, Construction Wage Rate Requirements-Price Adjustment (Actual Method), in fixed-price solicitations and contracts subject to the Construction Wage Rate Requirements statute under certain conditions. The conditions are that the solicitation or contract contains option provisions to extend the term of the contract and the contracting officer determines that the most appropriate method to adjust the contract price at



option exercise is to use a computation method based on the actual increase or decrease from a new or revised Department of Labor Construction Wage Rate Requirements statute wage determination.

The clause requires that a contractor submit at the exercise of each option to extend the term of the contract, a statement of the amount claimed for incorporation of the most current wage determination by the Department of Labor, and any relevant supporting data, including payroll records, that the contracting officer may reasonably require. The information is used by Government contracting officers to establish the contract price adjustment for the construction requirements of a contract, generally if the contract requirements are predominantly services subject to the Service Contract Labor Standards statute.

### C. Annual Reporting Burden

The Federal Procurement Data System (FPDS) indicates that 5,309 construction contractors in FY 2017 could potentially have had contracts with recurring options. However, we believe there are only approximately 10% of these that would contain the subject clause, since most would not have a price adjustment clause, and there are other FAR prescribed price adjustment clauses. The estimated total burden is as follows:

*Respondents:* 531.

*Responses per Respondent:* 1.

*Total Annual Responses:* 531.

*Hours per Response:* 40.

*Total Burden Hours:* 21,240.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* Annually.

*Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 9000-0154, Construction Wage Rate Requirements-Price Adjustment (Actual Method), in all correspondence.

Dated: May 14, 2018.

**Lorin S. Curit,**

*Director, Federal Acquisition Policy Division,  
Office of Governmentwide Acquisition Policy,  
Office of Acquisition Policy, Office of  
Governmentwide Policy.*

[FR Doc. 2018-10611 Filed 5-17-18; 8:45 am]

**BILLING CODE 6820-EP-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10241]

#### Agency Information Collection Activities: Submission for OMB Review; 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 (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 a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate 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 on the collection(s) of information must be received by the OMB desk officer by June 18, 2018.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-5806 or, Email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

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 <http://www.cms.hhs.gov/PaperworkReductionActof1995>.
2. Email your request, including your address, phone number, OMB number,

and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

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

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786-1326.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. 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 (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-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 that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey of Retail Prices; *Use:* This information collection request provides for a survey of the average acquisition costs of all covered outpatient drugs purchased by retail community pharmacies. CMS may contract with a vendor to conduct monthly surveys of retail prices for covered outpatient drugs. Such prices represent a nationwide average of consumer purchase prices, net of discounts and rebates. The contractor shall provide notification when a drug product becomes generally available and that the contract include such terms and conditions as the Secretary shall specify, including a requirement that the vendor monitor the marketplace. CMS has developed a National Average Drug Acquisition Cost (NADAC) for states to consider when developing reimbursement methodology. The NADAC is a pricing benchmark that is based on the national average costs that pharmacies pay to acquire Medicaid covered outpatient drugs. This pricing benchmark is based on drug acquisition costs collected directly from pharmacies through a nationwide survey process. This survey is conducted on a monthly basis to ensure that the NADAC reference file remains current and up-to-



date. *Form Number*: CMS–10241 (OMB control number 0938–1041); *Frequency*: Monthly; *Affected Public*: Private sector (Business or other for-profits); *Number of Respondents*: 30,000; *Total Annual Responses*: 30,000; *Total Annual Hours*: 15,000. (For policy questions regarding this collection contact: Lisa Shochet at 410–786–5445).

Dated: May 15, 2018.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2018–10673 Filed 5–17–18; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10540]

#### 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 July 17, 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](mailto: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–10540 Quality Improvement Strategy Implementation Plan and Progress Form

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*: Quality Improvement Strategy Implementation Plan and Progress Form; *Use*: Section 1311(c)(1)(E) of the Affordable Care Act requires qualified health plans (QHPs) offered through an Exchange must implement a quality improvement strategy (QIS) as described in section 1311(g)(1). Section 1311(g)(3) of the Affordable Care Act specifies the guidelines under Section 1311(g)(2) shall require the periodic reporting to the applicable Exchange the activities that a qualified health plan has conducted to implement a strategy as described in section 1311(g)(1). CMS intends to have QHP issuers complete the QIS Plan and Reporting Template annually for initial certification and subsequent annual updates of progress in implementation of their strategy. The template will include topics to assess an issuer's compliance in creating a payment structure that provides increased reimbursement or other incentives to improve the health outcomes of plan enrollees, prevent hospital readmissions, improve patient safety and reduce medical errors, promote wellness and health, and reduce health and health care disparities, as described in Section 1311(g)(1) of the Affordable Care Act.

The Quality Improvement Strategy Plan and Reporting Template will allow: (1) The Department of Health & Human Services (HHS) to evaluate the compliance and adequacy of QHP issuers' quality improvement efforts, as required by Section 1311(c) of the Affordable Care Act, and (2) HHS will use the issuers' validated information to evaluate the issuers' quality improvement strategies for compliance with the requirements of Section 1311(g) of the Affordable Care Act. *Form Number*: CMS–10540 (OMB control number: 0938–1286); *Frequency*: Annually; *Affected Public*: Public sector (Individuals and Households); Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents*: 250 respondents; *Total Annual Responses*: 250 responses; *Total Annual Hours*: 12,000 hours. (For policy questions regarding this collection, contact Nidhi Singh Shah at 301–492–5110.)

Dated: May 15, 2018.  
**William N. Parham, III,**  
*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*  
 [FR Doc. 2018-10672 Filed 5-17-18; 8:45 am]  
**BILLING CODE 4120-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Comment Request**

*Title:* Preventing and Addressing Intimate Violence When Engaging Dads.  
*OMB No.:* New Collection.  
*Description:* The Administration for Children and Families (ACF), Office of Planning, Research, and Evaluation (OPRE) proposes to collect information

as part of the Preventing and Addressing Intimate Violence when Engaging Dads (PAIVED) study. Since 2006, the Healthy Marriage and Responsible Fatherhood (HMRF) initiative has funded programs that play a key role in helping the Office of Family Assistance (OFA) achieve its goals to foster economically secure households and communities for the well-being and long-term success of children and families. The purpose of the PAIVED study is to better understand the prevalence of intimate partner violence (IPV) experienced by the population of fathers served by Responsible Fatherhood (RF) programs, and the services that federally- and non-federally funded RF programs are providing to address and contribute to the prevention of IPV among its participants.

The proposed data collection will include whether IPV content is included

in RF programs, the types of activities they are using to address IPV, and related successes and challenges. Other collected data will include barriers to addressing IPV in RF programs, the relevance of addressing IPV with fathers, fathers' reactions to this programming, and what types of partnerships RF programs have with other agencies to address IPV. This information will be collected through interviews conducted over the phone and in-person with RF program staff and community partners. This information will be critical to inform future efforts to address and contribute to the prevention of IPV through RF programming.

*Respondents:* Responsible Fatherhood program staff (e.g., program directors and facilitators) and community partners.

**ANNUAL BURDEN ESTIMATES**

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
RF program/community partner screening and participant recruitment .....	50	1	1	50
RF program staff semi-structured interview .....	25	1	1.5	38
Community partner semi-structured interview .....	15	1	1.5	23

*Estimated Total Annual Burden Hours:* 111.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: [OPREinfocollection@acf.hhs.gov](mailto:OPREinfocollection@acf.hhs.gov).

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: [OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV), Attn: Desk Officer for the Administration for Children and Families.

**Mary Jones,**  
*ACF/OPRE Certifying Officer.*  
 [FR Doc. 2018-10656 Filed 5-17-18; 8:45 am]  
**BILLING CODE 4184-73-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**U.S. National Authority for the WHO Global Code of Practice on the International Recruitment of Health Personnel; Notice of Public Meeting**

*Time and date:* Monday, July 2, 2018, 2:00 p.m.–4:00 p.m. EST.

*Place:* Hubert H. Humphrey Building, Room 325A, 200 Independence Ave. SW, Washington, District of Columbia 20201.

*Status:* Open, but requiring RSVP to [us.who.irhp@hhs.gov](mailto:us.who.irhp@hhs.gov) by Monday, June 25, 2018.

*Purpose:* The purpose of the World Health Organization (WHO) Global Code of Practice on International Recruitment of Health Personnel (Global Code) is “to establish and promote voluntary principles and practices for the ethical international recruitment of health personnel and to facilitate the strengthening of health systems.” The United States Government has designated the Office of Global Affairs (OGA) and the Health Resources and Services Administration (HRSA) as co-National Authorities to be the point of contact for implementation activities. The Global Code encourages WHO Member States to cooperate with all

relevant stakeholders in their implementation efforts. This meeting is intended to provide an update to all interested stakeholders on U.S. Global Code implementation efforts to date and to provide a forum for questions on activities related to implementation of the Global Code.

The meeting will be open to the public as indicated above, 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 within their RSVP at least 10 business days prior to the meeting. Foreign nationals planning to attend the session in person will require additional paperwork for security clearance and that this clearance process requires a minimum of 10 business days.

*RSVP:* Due to security restrictions for entry into the HHS Humphrey Federal Building, we will need to receive RSVPs for this event. Please send your full name and organization to [us.who.irhp@hhs.gov](mailto:us.who.irhp@hhs.gov). If you are not a U.S. citizen, you must RSVP no later than Monday, June 18, 2018. Please note this in the subject line of your RSVP, and our office will contact you to gain additional biographical information for your

clearance. For U.S. citizens, please RSVP no later than Monday, June 25, 2018. Written comments are welcome and encouraged, even if you are planning to attend in person. Please send them to the email address: [us.who.irhp@hhs.gov](mailto:us.who.irhp@hhs.gov).

Dated: May 9, 2018.

**G. Garrett Grigsby,**

*Director for Global Affairs.*

[FR Doc. 2018-10634 Filed 5-17-18; 8:45 am]

**BILLING CODE 4150-38-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Findings of research misconduct have been made on the part of Maria Cristina Miron Elqutub, Research Interviewer, University of Texas MD Anderson Cancer Center (MDACC). Dr. Elqutub engaged in research misconduct in research supported by National Institute of Dental and Craniofacial Research (NIDCR), National Institutes of Health (NIH), grant U01 DE019765-01. The administrative actions, including three (3) years of supervision, were implemented beginning on April 26, 2018, and are detailed below.

**FOR FURTHER INFORMATION CONTACT:**

Wanda K. Jones, Dr.P.H., Interim Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453-8200.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

*Maria Cristina Miron Elqutub, University of Texas MD Anderson Cancer Center:* Based on Respondent's admission, the report of an inquiry conducted by MDACC, and analysis conducted by ORI in its oversight review, ORI found that Ms. Maria Cristina Miron Elqutub, Research Interviewer, MDACC, engaged in research misconduct in research supported by NIDCR, NIH, grant U01 DE019765-01.

ORI found that Respondent engaged in research misconduct by intentionally and knowingly falsifying and/or fabricating data that were included in the following two (2) published papers and two (2) grant progress reports submitted to NIDCR, NIH:

- *PLoS One* 10(6):e0128753, 2015 Jun 2 (hereafter referred to as "*PLoS One* 2015").

- *Cancer* 121(14):2367-74, 2015 Jul 15 (hereafter referred to as "*Cancer* 2015") Retracted in: *Cancer* 124(4):869, 2018 Feb 15.

- 5 U01 DE019765-04.

- 5 U01 DE019765-05.

Specifically, ORI found that Respondent engaged in research misconduct by recording dates and providing her own blood samples to cause these samples to be falsely labeled as samples from ninety-eight (98) study subjects in a cancer genetics study involving human blood samples. This resulted in the reporting of false data in Tables 1, 2, 3, and 4 in *PLoS One* 2015, in Figure 1 and Tables 1, 2, 3, and 4 in *Cancer* 2015, and in the Results sections of Project 2 progress reports for NIDCR, NIH, grants 5 U01 DE019765-04 and 5 U01 DE019765-05.

Ms. Elqutub entered into a Voluntary Settlement Agreement and voluntarily agreed, beginning on April 26, 2018:

(1) To have her research supervised for a period of three (3) years; Respondent agreed to ensure that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, the institution employing her must submit a plan for supervision of Respondent's duties to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research contribution; Respondent agreed that she will not participate in any PHS-supported research until a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that for a period of three (3) years, any institution employing her must submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract;

(3) if no supervisory plan is provided to ORI, to provide certification to ORI on an annual basis for a period of three (3) years that she has not engaged in, applied for, or had her name included on any application, proposal, or other request for PHS funds without prior notification to ORI;

(4) to exclude herself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years; and

(5) to the correction or retraction of *PLoS One* 10(6):e0128753, 2015 Jun 2.

**Wanda K. Jones,**

*Interim Director, Office of Research Integrity.*

[FR Doc. 2018-10592 Filed 5-17-18; 8:45 am]

**BILLING CODE 4150-31-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

*Date:* June 6, 2018.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

*Contact Person:* Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435-1712, [ryansj@csr.nih.gov](mailto:ryansj@csr.nih.gov).

*Name of Committee:* Cell Biology Integrated Review Group; Development—1 Study Section.

*Date:* June 12, 2018.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7840, Bethesda, MD 20892, 301-435-1175, [berestm@mail.nih.gov](mailto:berestm@mail.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Special Emphasis Panel: Brain Injury and Neurovascular Pathologies.

*Date:* June 13, 2018.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301-435-1785, [kondratyevad@csr.nih.gov](mailto:kondratyevad@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Special Emphasis Panel: Brain Injury and Neurovascular Pathologies.

*Date:* June 13, 2018.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435-1246, [edwardss@csr.nih.gov](mailto:edwardss@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neural Trauma and Stroke.

*Date:* June 13, 2018.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301-435-1785, [kondratyevad@csr.nih.gov](mailto:kondratyevad@csr.nih.gov).

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Molecular Neuropharmacology and Signaling Study Section.

*Date:* June 14-15, 2018.

*Time:* 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

*Contact Person:* Carole L. Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435-1248, [jelsemac@csr.nih.gov](mailto:jelsemac@csr.nih.gov).

*Name of Committee:* Oncology 1—Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

*Date:* June 14-15, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites, DC Convention Center, 900 10th Street NW, Washington, DC 20001.

*Contact Person:* Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301-495-1718, [jakobir@mail.nih.gov](mailto:jakobir@mail.nih.gov).

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.

*Date:* June 14-15, 2018.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn, Washington, DC, Downtown, 1199 Vermont Ave. Washington, DC 20005.

*Contact Person:* Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301-435-2309, [fothergillke@mail.nih.gov](mailto:fothergillke@mail.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Musculoskeletal, Oral, Skin, Rheumatology and Rehab Sciences AREA (R15) Review.

*Date:* June 15, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301-237-9931, [ansaria@csr.nih.gov](mailto:ansaria@csr.nih.gov).

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.

*Date:* June 15, 2018.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

*Contact Person:* Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301-435-0681, [liangw3@csr.nih.gov](mailto:liangw3@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurogenesis and Bioengineering.

*Date:* June 15, 2018.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Mei Qin, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301-875-2215, [qinmei@csr.nih.gov](mailto:qinmei@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroimmunology, Neuroinflammation, and Brain Tumor.

*Date:* June 15, 2018.

*Time:* 11:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

*Contact Person:* Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, [gordiyenkonn@csr.nih.gov](mailto:gordiyenkonn@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR15-359: Biomarker Studies for Diagnosing Alzheimer's Disease and Predicting Progression.

*Date:* June 15, 2018.

*Time:* 11:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, 301-760-8207, [schauweckerpe@csr.nih.gov](mailto:schauweckerpe@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 11, 2018.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-10589 Filed 5-17-18; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Interagency Pain Research Coordinating Committee (IPRCC).

The meeting will be open to the public.

*Name of Committee:* Interagency Pain Research Coordinating Committee.

*Type of meeting:* Open Meeting.

*Date:* July 9, 2018.

Time: 2:00 p.m. to 4:00 p.m. \*Eastern Time\*.

**Agenda:** The meeting will include discussions of committee business items including an updated Federal Pain Portfolio Analysis and information about the NIH HEAL Initiative.

**Place:** National Institutes of Health, 31 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

**Call-In Number:** 1-650-479-3208.

**Public Access Code:** 620 284 887.

**Deadline:** Submission of intent to submit written/electronic statement for comments: Wednesday, July 5th, by 5:00 p.m. ET.

**Contact Person:** Linda L. Porter, Ph.D., Director, Office of Pain Policy, Office of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451-4460, Email: [Linda.Porter@nih.gov](mailto:Linda.Porter@nih.gov).

Please Note:

Any member of the public interested in submitting written comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Wednesday, July 5, 2018, with their request. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5:00 p.m. ET on Wednesday, July 5, 2018.

Statements submitted will be shared with the committee members and become a part of the public record.

The meeting will be open to the public for audio access through a telephone call in phone number. Members of the public who participate using the conference call phone number will be able to listen to the meeting as attendees but will not be heard. If you experience any technical problems with the call line, please call Operator Service on (301) 496-4517 for conference call issues and the NIH IT Service Desk at (301) 496-4357.

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

Information about the IPRCC is available on the website: <http://iprcc.nih.gov/>.

Dated: May 11, 2018.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2018-10590 Filed 5-17-18; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Submission for OMB Review; 30-Day Comment Request Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (National Institute of Nursing Research)

**AGENCY:** National Institutes of Health, Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or by fax to 202-395-6974, Attention: Desk Officer for NIH.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Diana Finegold, Division of Science Policy and Public Liaison, NINR, NIH, 31 Center Drive, Building 31, Suite B1B55, Bethesda, MD 20892, or call non-toll-free number (301) 496-0209 or email your request, including your address to: [diana.finegold@nih.gov](mailto:diana.finegold@nih.gov).

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on March 12, 2018, pages 10734-10736 (83 FR 10734) and allowed 60 days for public comment. No public comments were received.

The National Institute of Nursing Research (NINR), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**Proposed Collection:** Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 0925-0653, Expiration Date 4/30/2018, REINSTATEMENT WITHOUT CHANGE, National Institute of Nursing Research (NINR), National Institutes of Health (NIH).

**Need and Use of Information Collection:** There are no changes being requested for this submission. The information collection activity will continue to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Improving agency programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program. The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and

stakeholders on the Agency's services will be unavailable.  
 Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program

performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to

fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

OMB approval is requested for an additional 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 500.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
A .....	General Public .....	500	1	30/60	250
B .....	Health Professionals .....	300	1	30/60	150
C .....	Educators .....	200	1	15/60	50
D .....	Students .....	200	1	15/60	50
<b>Total</b> .....	.....	<b>1,200</b>	<b>1,200</b>	.....	<b>500</b>

Dated: May 10, 2018.  
**Diana F. Finegold,**  
*Health Communications Specialist, National Institute of Nursing Research, National Institutes of Health.*  
 [FR Doc. 2018-10651 Filed 5-17-18; 8:45 am]  
**BILLING CODE 4140-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

[Docket No. USCG-2018-0277]

**Navigation Safety Advisory Council; Vacancies**

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.  
**ACTION:** Request for applications.

**SUMMARY:** The U.S. Coast Guard seeks applications for membership on the Navigation Safety Advisory Council. The Navigation Safety Advisory Council provides advice and recommendations to the Secretary of the Department of Homeland Security, through the Commandant of the U.S. Coast Guard, on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety; and aids to navigation systems.

**DATES:** Completed applications should be submitted to the U.S. Coast Guard on or before July 17, 2018.

**ADDRESSES:** Applicants should send a cover letter expressing interest in an appointment to the Navigation Safety Advisory Council that also identifies which membership category the applicant is applying under, along with a resume detailing the applicant's experience via one of the following methods:

- *By Email:* [George.H.Detweiler@uscg.mil](mailto:George.H.Detweiler@uscg.mil) (preferred), Subject line: The Navigation Safety Advisory Council;
- *By Fax:* 202-372-1991, ATTN: Mr. George Detweiler, Alternate Designated Federal Officer; or
- *By Mail:* Commandant (CG-NAV-2)/NAVSAC, Attn: Mr. George Detweiler, Alternate Designated Federal Officer, Commandant (CG-NAV-2), U.S. Coast Guard, 2703 Martin Luther King Avenue SE, STOP 7418, Washington, DC 20593-7418.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Detweiler, Alternate Designated Federal Officer of the Navigation Safety Advisory Council; 202-372-1566 or email at [George.H.Detweiler@uscg.mil](mailto:George.H.Detweiler@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Navigation Safety Advisory Council is a federal advisory committee authorized by 33 U.S.C. 2073 and chartered under the provisions of the Federal Advisory Committee Act (Title 5, U.S.C., and Appendix).

The Navigation Safety Advisory Council provides advice and recommendations to the Secretary of the Department of Homeland Security, through the Commandant of the U.S. Coast Guard, on matters relating to maritime collisions, rammings, and

groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, diving safety; and aids to navigation systems.

The Navigation Safety Advisory Council normally meets twice a year. All members serve at their own expense and receive no salary or other compensation from the Federal Government. The only exception to this policy is when attending the Navigation Safety Advisory Council meetings members may be reimbursed for travel and per diem in accordance with federal travel regulations.

The U.S. Coast Guard will consider applications for seven positions that will be vacant on November 4, 2018, in the following membership categories only:

- a. Commercial vessel owners and operators; and
- b. Professional mariners.

Each member will be appointed to represent the viewpoints and interests of one of the groups or organizations, and at least one member will be appointed to represent each membership category. All members serve as representatives and are not Special Government Employees as defined in Section 202(a), Title 18, U.S.C.

To be eligible, you should have experience in one of the categories listed above. Members serve terms of office of up to three (3) years. Members may be considered to serve up to two (2) consecutive terms. In the event the

Navigation Safety Advisory Council terminates, all appointments to the Council terminate.

The Department of Homeland Security does not discriminate in selection of Council members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Council, send your cover letter and resume to Mr. George Detweiler, the Navigation Safety Advisory Council, Alternate Designated Federal Officer via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. All email submittals will receive email receipt confirmation.

Dated: May 15, 2018.

**Michael D. Emerson,**

*Director, Marine Transportation Systems.*

[FR Doc. 2018-10618 Filed 5-17-18; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[1651-0029]

#### Agency Information Collection Activities: Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than July 17, 2018) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s)

contained in this notice must include the OMB Control Number 1651-0029 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP\_PRA@cbp.dhs.gov*.

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 or via email *CBP\_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request

for approval. All comments will become a matter of public record.

#### Overview of This Information Collection

*Title:* Application for Foreign-Trade Zone Admission and/or Status Designation, and Application for Foreign-Trade Zone Activity Permit.

*OMB Number:* 1651-0029.

*Form Numbers:* 214, 214A, 214B, 214C, and 216.

*Type of Review:* Extension (without change).

*Action:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Forms 214, 214A, 214B, 214C, and 216.

*Affected Public:* Businesses.

*Abstract:* Foreign trade zones (FTZs) are geographical enclaves located within the geographical limits of the United States but for tariff purposes are considered to be outside the United States. Imported merchandise may be brought into FTZs for storage, manipulation, manufacture or other processing and subsequent removal for exportation, consumption in the United States, or destruction. A company bringing goods into an FTZ has a choice of zone status (privileged/non-privileged foreign, domestic, or zone-restricted), which affects the way such goods are treated by Customs and Border Protection (CBP) and treated for tariff purposes upon entry into the customs territory of the U.S.

CBP Forms 214, 214A, 214B, and 214C, which make up the *Application for Foreign-Trade Zone Admission and/or Status Designation*, are used by companies that bring merchandise into an FTZ to register the admission of such merchandise into FTZs and to apply for the appropriate zone status. CBP Form 216, *Foreign-Trade Zone Activity Permit*, is used by companies to request approval to manipulate, manufacture, exhibit, or destroy merchandise in an FTZ.

These FTZ forms are authorized by 19 U.S.C. 81 and provided for by 19 CFR 146.22, 146.32, 146.39, 146.40, 146.41, 146.44, 146.52, 146.53, and 146.66. These forms are accessible at: <http://www.cbp.gov/newsroom/publications/forms>.

*Form 214, Application for Foreign-Trade Zone Admission and/or Status Designation*

*Estimated Number of Respondents:* 6,749.

*Estimated Number of Annual Responses per Respondent:* 25.

*Estimated Total Annual Responses:* 168,725.



*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 42,181.

*Form 216, Application for Foreign-Trade Zone Activity Permit*

*Estimated Number of Respondents:* 2,500.

*Estimated Number of Annual Responses per Respondent:* 10.

*Estimated Total Annual Responses:* 25,000.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 4,167.

Dated: May 15, 2018.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2018-10619 Filed 5-17-18; 8:45 am]

BILLING CODE 9111-14-P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### Opening of Application Period for Third-Party Canine-Cargo Certifiers

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** Notice.

**SUMMARY:** The Transportation Security Administration (TSA) is opening a 90-day window for applications to be a third-party canine-cargo certifying organization. Successful applicants will be required to sign and comply with an Order issued by TSA. Approved certifying organizations will assess third-party explosives detection canine teams to determine whether they meet TSA's standards for screening air cargo. This notice provides information necessary for qualified, interested persons to obtain the application.

**DATES:**

*Opening Date:* Applications will be accepted beginning 12:01 a.m. (EDT) on May 21, 2018.

*Closing Date:* Applications under this notice must be received no later than 11:59 p.m. (EDT) on August 19, 2018.

**ADDRESSES:** Interested parties can contact [3PKCert@tsa.dhs.gov](mailto:3PKCert@tsa.dhs.gov) to obtain a copy of the application package.

**FOR FURTHER INFORMATION CONTACT:**

Noah Burnett, 3PK9-C Team, Canine Training Center, Office of Training and Development, Transportation Security Administration, U.S. Department of Homeland Security; email to [3PKCert@tsa.dhs.gov](mailto:3PKCert@tsa.dhs.gov); telephone at (210) 396-4425 (desk); fax to (210) 671-4911.

**SUPPLEMENTARY INFORMATION:**

**Background**

TSA created the Third-Party Canine-Cargo (3PK9-C) Program, under TSA's regulations for Certified Cargo Screening Programs (CSSP), *see* 49 CFR part 1549, to provide an efficient and effective method for screening air cargo to TSA's standards. Under this program, third-party canine teams trained in explosives detection can be certified by a non-governmental entity, acting under the approval of TSA, as meeting TSA's certification standards. Certified 3PK9-C teams can be deployed to screen air cargo for aircraft operators, foreign air carriers, and other TSA-regulated parties operating under a TSA-approved or accepted security program.

TSA is seeking applications from qualified persons interested in becoming an approved 3PK9-C Certifier under the 3PK9-C Program. All applicants must meet the minimal qualifications before their application will be evaluated to determine whether the applicant meets TSA's requirements.

The evaluation process will assess whether the applicant meets TSA's requirements. Applications received between 12:01 a.m. (EDT) on May 21, 2018 and 11:59 p.m. (EDT) on August 19, 2018, will be reviewed on a rolling basis. If the agency determines that an applicant meets TSA's requirements, TSA will provide the applicant with a copy of a binding Order<sup>1</sup> that must be signed before the applicant becomes a participant in the program as a 3PK9-C Certifier. Failure to comply with the 3PK9-C Certifier Order may result in removal from the program and/or enforcement action against the 3PK9-C Certifier. TSA may require the 3PK9-C Certifier to submit additional information under the Order and complete orientation before being approved by TSA to commence operations.

Under this program, 3PK9-C Certifiers are authorized to conduct certifications and make determinations as to whether canine teams meet TSA's standards as specified in the Order. Selection as a 3PK9-C Certifier does not indicate any of the following:

- An award of a government-issued contract or financial support from TSA (no Federal funding will be expended

<sup>1</sup> The Order for 3PK9-C Certifiers will not be available to the public as it contains information that cannot be publicly disclosed under 49 CFR part 1520. Applicants that complete the required vetting processes and other agreements necessary for release of Sensitive Security Information (SSI), including documenting a "need to know," will be provided a copy of the Order as part of the application process.

for certification of canine teams under the 3PK9-C program).

- A guarantee of any minimum work or funding.

TSA must ensure the certification of canine teams under the 3PK9-C Program will be conducted in an appropriate, consistent and verifiable manner. In general, TSA will review applications to determine whether:

- The applicant demonstrates expert knowledge of critical test and evaluation concepts to certify canine teams for the detection of explosives (for example, management of certification data, explosives training aids, use and safety, *etc.*).

- The applicant demonstrates sufficient past performance and expertise in performing explosive detection canine team certifications.

TSA will make its determinations based on the information submitted by the applicant in its application. Therefore, applicants are encouraged to ensure they provide complete information related to all requirements. TSA may contact the applicant with questions and/or requests for clarification during the review of submitted materials.

Applicants will be required to attest that they meet or will be able to meet the minimal qualification standards identified below. These minimum requirements must be sustained throughout the applicant's participation in the 3PK9-C Program.

1. Has or can obtain permission from TSA to receive, store, and protect SSI in accordance with TSA regulations and policies (*see* footnote 1).

2. All proprietors, general partners, officers, directors, or owners of the applicant, as well as all employees who will perform activities pursuant to this application or the 3PK9-C Certifier Order, have successfully completed or are able to successfully complete a security threat assessment (STA) identified in 49 CFR part 1540, subpart C.

3. Has necessary resources and personnel to implement and sustain the certification plan submitted with the application.

4. Can comply with applicable Federal, state and local regulations regarding the safe handling and storage of explosives.

5. For each 3PK9-C Certifier employee who will be conducting certification activities, ensure the individual has a minimum of five years of explosives and/or narcotics detection experience in conducting certifications with one or more of the following organizations:



a. United States Police Canine Association (USPCA),  
 b. North American Police Working Dog Association (NAPWDA),  
 c. International Police Working Dog Association (IPWDA),  
 d. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Defense (DoD), or other Federal government agencies,  
 e. TSA, or  
 f. Similar organization that TSA approves as having a commensurate level of certifications for the purpose of the 3PK9–CP.

6. Can provide 3PK9–C certifications at air cargo/shipping locations throughout the United States as defined in 49 CFR part 1500.3.

7. Must have capability to video record certification events and maintain recordings in digital format for a minimum of two years.

8. Must ensure the applicant will not conduct assessments for which there exists a conflict of interest as defined in the 3PK9–C Certifier Order.

Interested persons can obtain a copy of the application instructions by submitting a request for information to the email address noted under

#### ADDRESSES.

Dated: May 14, 2018.

**Kimberly Walton,**

*Chief of Mission Support.*

[FR Doc. 2018–10636 Filed 5–17–18; 8:45 am]

BILLING CODE 9110–05–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R6–MB–2017–N185; FF06M00000–XXX–FRMB48720660190]

#### Draft Environmental Assessment for the Potential Issuance of a Bald Eagle Take Permit for Courtenay Wind Farm, Stutsman County, ND

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability of a draft Environmental Assessment (DEA) under the National Environmental Policy Act (NEPA) for the potential issuance of a take permit for bald eagles pursuant to the Bald and Golden Eagle Protection Act (Eagle Act), in association with the operation of the Courtenay Wind Farm (project) in Stutsman County, North Dakota. The DEA was prepared in response to an application from Northern States Power Company—Minnesota, doing business

as Xcel Energy (applicant), for a 5-year take permit for bald eagles (*Haliaeetus leucocephalus*) under the Eagle Act. The applicant would implement a conservation program to avoid and minimize the project's impacts to eagles, as described in the applicant's Eagle Conservation Plan. We invite public comment on the DEA.

**DATES:** To ensure consideration, please send your written comments by June 18, 2018.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Courtenay Wind Farm DEA:

- *Internet:* Documents may be viewed on the internet at <https://www.fws.gov/mountain-prairie/wind/>.

- *Email:* [FW6WindEnergy@fws.gov](mailto:FW6WindEnergy@fws.gov). Include “Courtenay Wind Farm DEA” in the subject line of the message.

- *U.S. Mail:* Courtenay Wind Farm DEA, U.S. Fish and Wildlife Service, Mountain-Prairie Region, Attention: Hillary White, P.O. Box 25486 DFC, Denver, CO 80225.

- *Hand-Delivery/Courier:* Courtenay Wind Farm DEA, U.S. Fish and Wildlife Service, Mountain-Prairie Region, Attention: Hillary White, 134 Union Blvd., Lakewood, CO 80228.

#### FOR FURTHER INFORMATION CONTACT:

Hillary White, Migratory Bird Program, at [FW6WindEnergy@fws.gov](mailto:FW6WindEnergy@fws.gov) (email) or 303–236–4770 (telephone); or Brian Smith, at [FW6WindEnergy@fws.gov](mailto:FW6WindEnergy@fws.gov) (email) or 303–236–4403 (telephone). Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individuals. The Federal Relay Service is available 24 hours a day, 7 days a week, for you to leave a message or question for the above individuals. You will receive a reply during normal business hours.

#### SUPPLEMENTARY INFORMATION:

##### Introduction

The U.S. Fish and Wildlife Service (Service) is considering an application under the Bald and Golden Eagle Protection Act (16 U.S.C. 668a–d; Eagle Act) for a bald eagle (*Haliaeetus leucocephalus*) take permit from Northern States Power Company—Minnesota, doing business as Xcel Energy (applicant), for a 5-year take permit for bald eagles under the 2009 regulations (74 FR 46836, September 11, 2009). The Service published changes to eagle permitting regulations (81 FR 91494, December 16, 2016), which took effect on January 15, 2017. Applicants

who submitted permit applications before July 14, 2017, may choose to be considered for issuance of an eagle take permit under either the original 2009 regulations or the 2016 revised regulations (81 FR 91494). The applicant submitted the permit application on April 11, 2016, and has chosen to be considered under the 2009 regulations. The project is an existing operational wind facility in Stutsman County, North Dakota. The application includes an Eagle Conservation Plan (ECP) as the foundation of the applicant's permit application. The ECP describes actions that have been taken, as well as proposed future actions, to avoid and minimize adverse effects on eagles.

We have prepared this DEA to evaluate the impacts of issuing or not issuing the eagle take permit for compliance with our Eagle Act permitting regulations in the Code of Federal Regulations (CFR) at 50 CFR 22.26, as well as impacts of implementing the supporting ECP, which is included as an appendix to the DEA.

#### Background

The Eagle Act allows us to authorize bald eagle take “for the protection . . . of agricultural or other interests in any particular locality.” The 2009 regulations authorize the limited take of bald eagles under the Eagle Act, where the take to be authorized is associated with otherwise lawful activities (74 FR 46836). The Eagle Act's implementing regulations define “take” as to “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” individuals, their nests and eggs (50 CFR 22.3); and “disturb” is further defined as “to agitate or bother a bald or golden eagle to a degree that causes . . . (1) injury to an eagle, . . . (2) a decrease in its productivity, . . . or (3) nest abandonment” (50 CFR 22.3). The project is predicted to result in recurring bald eagle mortalities over the life of the project, so the appropriate type of take permit is the permit under 50 CFR 22.26.

We may consider issuance of eagle take permits if (1) the incidental take is necessary to protect legitimate interests; (2) the take is compatible with the preservation standard of the Eagle Act—providing for stable or increasing breeding populations; and (3) the take has been avoided and minimized to the degree achievable through implementation of Advanced Compensation Practices, and the remaining take is unavoidable. The Service must determine that the direct and indirect effects of the take, together

with the cumulative effects of other permitted take and additional factors affecting eagle populations, are compatible with the preservation of bald eagles and golden eagles.

### Proposed Action

The permit applicant, Northern States Power Company—Minnesota, doing business as Xcel Energy, is operating an approximately 200.5-megawatt commercial wind energy facility in Stutsman County, North Dakota. The 100-turbine project, sited entirely on private land, became operational on December 1, 2016.

The applicant developed an ECP based on our guidance contained in the *Eagle Conservation Plan Guidance Module 1: Land-Based Wind Energy Version 2 (Service 2013)* (ECP Guidance) (<https://www.fws.gov/migratorybirds/pdf/management/eagleconservationplanguidance.pdf>).

As recommended in the Service's ECP Guidance, the applicant's plan outlines avoidance and minimization measures, contains a risk assessment, and includes advanced conservation practices and adaptive management. The applicant submitted the ECP as part of the permit application, and if we issue the permit, then the conservation commitments would become conditions of the permit.

The Service independently evaluated the risk of bald eagle fatalities from project operations and compared that risk to the conservation measures to which the applicant committed. We used our Collision Risk Model to estimate the number of annual bald eagle fatalities resulting from operation and maintenance of the project. This is an essential step in the Service's evaluation of an application for a permit for take of eagles because issuing criteria require permitted take to comply with the Eagle Act's preservation standard. In the DEA, we evaluate the risk and offsetting conservation measures, and the implications for direct, indirect, and cumulative effects of issuing a permit and a No Action alternative.

### National Environmental Policy Act Compliance

Our consideration of whether or not to issue a 5-year ETP is an action subject to the National Environmental Policy Act (NEPA). Our DEA analyzes the risk of bald eagle take associated with operation and maintenance of the project, and assesses the potential effects of permit issuance and a No Action alternative (*i.e.*, do not issue an ETP) on the human and natural environment.

### Public Comments

We invite public comment on the proposed DEA. If you wish, you may submit comments by any one of the methods discussed in **ADDRESSES**. We will consider public comments on the DEA when making the final determination on NEPA compliance and permit issuance.

### Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### Next Steps

The public process for the proposed Federal permit action will be completed after the public comment period, at which time we will evaluate the permit application and comments submitted thereupon to determine whether the application meets the permitting requirements under the Eagle Act, applicable regulations, and NEPA requirements. Upon completion of that evaluation, we will select our course of action.

### Authority

We provide this notice under section 668a of the Eagle Act (16 U.S.C. 668–668d) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.300).

### Matt Hogan,

*Deputy Regional Director, USFWS Mountain-Prairie Region, Lakewood, Colorado.*

[FR Doc. 2018–10629 Filed 5–17–18; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R8–R–2018–N008; FF08RSDC00–189–F1611MD–FXRS12610800000]

### Otay River Estuary Restoration Project, South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge, California; Final Environmental Impact Statement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; final environmental impact statement.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of a final environmental impact statement (EIS) for a proposed project to restore coastal wetlands at the south end of San Diego Bay. The Otay River Estuary Restoration Project is located within the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge (NWR) in San Diego County, California. This notice advises the public that the final EIS is now available to the public. The final EIS describes the alternatives identified to restore two portions of the South San Diego Bay Unit of the San Diego Bay NWR to coastal wetlands to benefit native fish, wildlife, and plant species.

**ADDRESSES:** *Document Availability:* You may obtain copies of the EIS and related documents in the following places:

- *Internet:* [https://www.fws.gov/refuge/San\\_Diego\\_Bay/what\\_we\\_do/Resource\\_Management/Otay\\_Restoration.html](https://www.fws.gov/refuge/San_Diego_Bay/what_we_do/Resource_Management/Otay_Restoration.html).
- *In Person:*
  - San Diego National Wildlife Refuge Complex Headquarters, 1080 Gunpowder Point Drive, Chula Vista, CA 91910; telephone: 619–476–9150, extension 103.
  - Chula Vista Public Library, Civic Center Branch, 365 F Street, Chula Vista, CA 91910; telephone: 619–691–5069.
  - San Diego County Library, Imperial Beach Branch Library, 810 Imperial Beach Blvd. Imperial Beach, CA 91932; telephone: 619–424–6981.
  - Chula Vista Public Library, South Chula Vista Branch, 389 Orange Avenue, Chula Vista, CA 91911; telephone: 619–585–5755.

**FOR FURTHER INFORMATION CONTACT:** Brian Collins, Refuge Manager, San Diego Bay National Wildlife Refuge at 619–575–2704, extension 302 (telephone) or [brian\\_collins@fws.gov](mailto:brian_collins@fws.gov) (email); or Andy Yuen, Project Leader, 619–476–9150, extension 100 (telephone), or [andy\\_yuen@fws.gov](mailto:andy_yuen@fws.gov) (email).

**SUPPLEMENTARY INFORMATION:****National Environmental Policy Act Compliance**

We are conducting environmental review for the proposed Otay River Estuary Restoration Project in accordance with the requirements of the National Environmental Policy Act, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), its implementing regulations in 40 CFR 1500–1508, other applicable regulations, and our procedures for compliance with those regulations. The U.S. Army Corps of Engineers is participating as a cooperating agency in preparation of the EIS. On November 14, 2011, we published in the **Federal Register** a notice of intent to prepare an environmental impact statement (EIS) for the Otay project (76 FR 70480). Based on information developed after the scoping period, the proposed area of the project was expanded, so on January 8, 2013, we published a notice to reinstate the scoping process (78 FR 1246). We announced the availability of the draft EIS for public comment on October 21, 2016 (81 FR 72817), and reopened the comment period on December 27, 2016 (81 FR 95176). In accordance with 40 CFR 1506.6, we now announce the availability of the final EIS.

In addition to our publication of this notice, the U.S. Environmental Protection Agency (EPA) is publishing a notice announcing the final EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). The publication date of EPA's notice of availability in the **Federal Register** is the start of the 30-day wait period required for the final EIS. (See EPA's Role in the EIS Process, below, for further information.)

We will make a decision on the alternatives presented in the EIS no sooner than 30 days after the publication of the final EIS. We anticipate issuing a Record of Decision (ROD) in 2018.

**Background**

In 2006, we completed a comprehensive conservation plan (CCP) and EIS/ROD to guide the management of the San Diego Bay NWR over a 15-year period (71 FR 64552, November 2, 2006). The wildlife and habitat management goal of the selected management alternative in the CCP for the South San Diego Bay Unit is to "Protect, manage, enhance, and restore . . . coastal wetlands . . . to benefit the native fish, wildlife, and plant species supported within the South San Diego Bay Unit." One of the strategies identified to meet this goal is to restore

native habitats in the Otay River floodplain and the salt ponds.

On November 15, 2007, the California Coastal Commission (Commission) approved a coastal development permit (CDP No. E-06-013) for a proposal by Poseidon Resources (Channelside) LP (Poseidon) to construct and operate a desalination facility in Carlsbad, California. As part of that approval, the Commission required Poseidon, through special condition 8, to submit for additional Commission review and approval a marine life mitigation plan (MLMP) to address the impacts to be caused by the facility's use of estuarine water and its entrainment of marine organisms. The MLMP was conditionally approved by the Commission on August 6, 2008 (CCC 2008). With the incorporation of the Commission's revisions, the MLMP was finalized on November 21, 2008. The MLMP requires that Poseidon submit a proposed mitigation site and preliminary restoration plan that achieves the following mitigation requirements:

- Create or substantially restore tidal wetland habitat, preferably in the San Diego Region;
- Restore at least 66.4 acres of coastal wetland habitat as mitigation at a maximum of two sites;
- The chosen site must be available and protected against future degradation; and
- Fish productivity must be at least 1,717.5 kg/year.

**Project**

On September 29, 2010, the San Diego NWR Complex and Poseidon entered into a memorandum of understanding to establish a partnership to facilitate the restoration of property within the San Diego Bay NWR, consistent with the CCP and the Commission's permit requirements for Poseidon. The proposed restoration project represents step-down restoration planning for the western portion of the Otay River floodplain and one of the salt ponds within the Refuge's solar salt pond complex. Funding for the proposed restoration is being provided by the Poseidon Resources Carlsbad Desalination Project to fulfill part of the mitigation requirements imposed by the Commission and the Regional Water Quality Control Board for the construction of a desalination plant in Carlsbad.

The proposed action site is located at the south end of San Diego Bay, San Diego County, California, within the South San Diego Bay Unit of the San Diego Bay NWR. Restoration activities will occur at two separate locations

within the Refuge: The Otay River Floodplain Site and the Pond 15 Site. Specifically, the approximately 34-acre Otay River Floodplain Site is located west of Interstate 5 (I-5) between Main Street to the north and Palm Avenue to the south in San Diego. The Pond 15 Site consists of an approximately 91-acre active solar salt pond located in the northeast portion of the Refuge, to the northwest of the intersection of Bay Boulevard and Palomar Street in Chula Vista.

**Alternatives**

The site-specific EIS for the Otay project tiers from the 2006 programmatic EIS and ROD prepared for the Refuge CCP. We analyzed three alternatives in this final EIS:

*Alternative A: No Action Alternative*

Under the No Action Alternative, the disturbed areas within the Otay River Floodplain Site would not be restored or enhanced to coastal wetlands to benefit native species, and the Pond 15 Site would not be restored to tidally influenced subtidal and intertidal habitat. Under this alternative, Pond 15 would remain part of an existing commercial solar salt operation, and periodic maintenance to control non-native plants would continue to occur on the Otay River Floodplain Site in conjunction with ongoing management of the Refuge.

*Alternative B: Intertidal Alternative (Proposed Action)*

The Intertidal Alternative, Alternative B, is the proposed action. The proposed action would involve lowering the elevation and contouring the Otay River Floodplain Site to create approximately 29.8 acres of tidally influenced habitat, consisting of approximately 5.1 acres of intertidal mudflat and 24.7 acres of intertidal salt marsh habitat through altering elevations on the site. In addition, the restored area would include approximately 3.7 acres of upland habitat. The proposed action would also involve raising the elevation and contouring the Pond 15 Site to create approximately 10.4 acres of subtidal habitat, 18.4 acres of intertidal mudflat, 57.3 acres of intertidal salt marsh habitat, about 1 acre of high-tide refugia, and 3.9 acres of upland habitat. Both sites would be planted with a mix of native wetland vegetation that would mature into low-marsh, mid-marsh, and high-marsh vegetative communities. The intertidal areas and the unvegetated mudflat would provide foraging habitat for adult and juvenile fish, which then form the foraging base of the food chain

that would benefit larger fish, birds, and other species on and off the site.

Implementation of the proposed action would involve the excavation of approximately 320,000 cubic yards of material from the Otay River Site and the transport of 260,000 cubic yards of this material to the Pond 15 Site for use in creating tidal elevations that would support the desired intertidal habitats and improving levees to separate Pond 15 from the remaining active solar salt operation.

The combination of the wetlands created at the Otay River Floodplain Site and Pond 15 Site under the proposed action would provide sufficient mitigation credit to meet the MLMP requirements.

#### *Alternative C: Subtidal Alternative*

Alternative C, the Subtidal Alternative, would involve lowering the Otay River Floodplain Site to an elevation lower than that proposed under Alternative B (proposed action) to create a subtidal channel within the Otay River Floodplain Site. Under the Subtidal Alternative, the subtidal zone would be surrounded by mudflats and increasing elevation of salt marsh. Specifically, the Subtidal Alternative would involve lowering the elevation and contouring the Otay River Floodplain Site to create approximately 4.5 acres of subtidal habitat, approximately 6.5 acres of intertidal mudflat, 18.7 acres of intertidal salt marsh habitat, and approximately 3.7 acres of upland habitat. The Subtidal Alternative would also involve raising the elevation and contouring the Pond 15 Site to create tidally influenced habitat that would be similar to that proposed under Alternative B, with approximately 9.8 acres of subtidal habitat, 16.3 acres of intertidal mudflat, 58.7 acres of intertidal salt marsh, approximately 2.2 acres of high-tide refugia, and 4.0 acres of upland habitat. Both sites would be planted with a mix of native wetland vegetation that would mature into low-marsh, mid-marsh, and high-marsh vegetative communities. The subtidal areas would provide fish spawning and foraging habitat, and the unvegetated mudflat would provide foraging habitat for adult and juvenile fish during high tides. Combined, the subtidal and mudflat areas would provide habitat for the basis of the food chain that would benefit larger fish, birds, and other species on and off the site.

Implementation of the Subtidal Alternative would involve the excavation of approximately 370,000 cubic yards of material from the Otay River Site and the transport of 312,000

cubic yards of this material to the Pond 15 Site for use in creating tidal elevations that would support the desired intertidal habitats and improving levees to separate Pond 15 from the remaining active solar salt operation.

The combination of the wetlands created at the Otay River Floodplain Site and Pond 15 Site under the Subtidal Alternative would also provide sufficient mitigation credit to meet the MLMP requirements.

#### **EPA's Role in the EIS Process**

The EPA is charged, under section 309 of the Clean Air Act, to review all Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The Environmental Impact Statement (EIS) Database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the 30-day "wait period" for final EISs, during which agencies are generally required to wait 30 days before making a decision on a proposed action. For more information, see <https://www.epa.gov/nepa>. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

**Paul Souza,**

*Regional Director, Pacific Southwest Region.*

[FR Doc. 2018-10630 Filed 5-17-18; 8:45 am]

**BILLING CODE 4333-15-P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

**[FWS-HQ-ES-2018-N063; FF09E42000 178 FXES11130900000]**

#### **Endangered and Threatened Species; Issuance of Enhancement of Survival and Incidental Take Permits January 2, 2017 Through December 29, 2017**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, in accordance with section 10(d) of the Endangered Species Act (ESA) as amended, provide a list to the public of the permits issued under

sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes the taking or is exempted through section 7 of the ESA. Under section 10(a)(1)(A), we issue enhancement of survival permits in conjunction with candidate conservation agreements with assurances (CCAA) and safe harbor agreements (SHA). Section 10(a)(1)(A) also authorizes recovery permits, but this notice is limited to permits issued with CCAs and SHAs; issued recovery permits will be summarized in a separate notice. Section 10(a)(1)(B) permits authorize take of endangered and threatened species incidental to otherwise lawful activities associated with habitat conservation plans. We provide this list to the public as a summary of our permit issuances for calendar year 2017.

**FOR FURTHER INFORMATION CONTACT:** For general information about the ESA permit process, contact Karen Anderson, 703-358-2301, [karen\\_anderson@fws.gov](mailto:karen_anderson@fws.gov). For information on specific permits, see the contact information below in Permits Issued.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; ESA), we have issued permits to conduct activities that provide a conservation benefit for endangered or threatened species, or for unlisted species should they become listed in the future, in response to permit applications that we received in conjunction with a CCAA or SHA.

Under section 10(a)(1)(B), we may issue permits for any taking otherwise prohibited by section 9 if such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity (known as an incidental take permit (ITP)) and the permit applicant submits a habitat conservation plan (HCP) that meets the permit issuance criteria under section 10(a)(2)(B). Typically, applicants seek an ITP to conduct activities such as residential and commercial development, infrastructure development or maintenance, and energy development projects that range in scale from small to landscape-level planning efforts.

We issued the permits listed below between January 17 and December 27, 2017. Under section 10(a)(1)(A), we issued each permit only after we determined that it was applied for in good faith, that granting the permit

would not be to the disadvantage of the listed species, that the proposed activities would benefit the recovery or the enhancement of survival of the species, and that the terms and conditions of the permits were consistent with the purposes and policy set forth in the ESA. Under section 10(a)(1)(B), we issued permits only after we determined that the applicant is eligible and has submitted a complete application and HCP that fully meets

the permit issuance criteria consistent with section 10(a)(2)(B).

**Permits Issued**

*Region 1 (Pacific Region: Hawaii, Idaho, Oregon (except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories)*

The following permits were applied for and issued in Region 1. For more

information about any of the following permits, contact the field office that issued the permit by telephone at:

Oregon Fish and Wildlife Office (OR), 503-231-6179  
 Washington Fish and Wildlife Office (WA), 360-753-9440

Permit No.	Plan or agreement type/field office	Permittee	Date issued
TE28451C-0	HCP/OR	Oregon Department of Transportation	3/31/2017
TE38529C-0	HCP/OR	Port of Portland	6/21/2017
TE33852C-0	HCP/WA	Cedar River Timberlands, LLC	5/16/2017
TE40744C-0	HCP/WA	Steve McLain	9/15/2017
TE15888C-0	HCP/WA	Weyerhaeuser Co	2/13/2017
TE93256B-1	SHA/OR	Oregon Department of Forestry	11/15/2017
TE84825B-1, TE84826B-1.	SHA/OR	Roseburg Resources Company, Oxbow Timber I, LLC	11/15/2017
TE05794C-1	SHA/OR	Roseburg Resources Company	11/15/2017
TE85855B-1	SHA/OR	Weyerhaeuser Company	11/15/2017

*Region 2 (Southwest Region: Arizona, New Mexico, Oklahoma, and Texas)*

The following permits were applied for and issued in Region 2. For more

information about any of the following permits, contact the HCP, CCAA, or SHA Permit Coordinator by email at

*FW2\_HCP\_Permits@fws.gov* or by telephone at 505-248-6651.

Permit No.	Plan or agreement type/field office	Permittee	Date issued
TE38803C-0	HCP	Antioch Operating, LLC	10/6/2017
TE97022B-0	HCP	Calyx Energy III, LLC	8/5/2017
TE38404B-2	HCP	Canyon Creek Energy Operating	5/3/2017
TE13632C-0	HCP	The Center of Excellence	10/13/2017
TE33336C-0	HCP	Corterra Energy Operating, LLC	7/27/2017
TE29847C-0	HCP	Council Oak Resources, LLC	7/27/2017
TE19776C-0	HCP	MV Purchasing	7/5/2017
TE35998C-0	HCP	NGPL Pipe Co., LLC	10/6/2017
TE24128C-0	HCP	Paragon Geophysical Services, Inc	7/5/2017
TE11120C-0	HCP	Performance Petroleum Co	1/30/2017
TE41500C-0	HCP	Plains All America Pipeline	10/11/2017
TE086834-2	HCP	Sears, Peter John	3/20/2017
TE23848C-0	HCP	Targa Pipeline Mid-Continent, LLC	7/7/2017
TE23851C-0	HCP	Targa South OK/NGL Pipeline, LLC	7/7/2017
TE25117C-0	HCP	Tenaska, Inc	7/5/2017
TE024619-2	HCP	Texas Parks and Wildlife Department	7/12/2017
TE22132C-0	HCP	TPL Arkoma, Inc	7/5/2017
TE22139C-0	HCP	TPL Arkoma, Midstream	7/7/2017
TE49745B-2	HCP	Trinity Operating USG, LLC (AKA PetroQuest	1/20/2017
TE35997C-0	HCP	Wildhorse Terminal, LLC	7/30/2017
TE22080C-0	SHA	Texas Parks and Wildlife Department	7/12/2017
TE43603C-0	CCAA	New Mexico State Land Office	10/6/2017
TE06522C-0	CCAA	The Center of Excellence	10/6/2017

*Region 3 (Midwest Region: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin)*

The following permit was applied for and issued in Region 3. For more

information about the permit, contact the field office that issued the permit by telephone at: Illinois-Iowa Ecological Services Field Office, 309-757-5800.

Permit No.	Plan or agreement type/field office	Permittee	Date issued
TE54252C-0 .....	HCP .....	Hoopeston Wind, LLC .....	10/5/17

Region 4 (Southeast Region: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, Commonwealth of Puerto Rico, and the U.S. Virgin Islands)

information about any of the following permits, contact the HCP or CCAA Permit Coordinator by email at [PermitsR4ES@fws.gov](mailto:PermitsR4ES@fws.gov) or by telephone at 404-679-7140.

The following permits were applied for and issued in Region 4. For more

Permit No.	Plan or agreement type	Permittee	Date issued
TE11183C-0 .....	HCP .....	Baker, Duane A .....	1/17/2017
TE160194-1 .....	HCP .....	Barnette, Joe And Mary .....	9/15/2017
TE089051-1 .....	HCP .....	Calandrucchio, Peter C .....	7/21/2017
TE218326-1 .....	HCP .....	Cline, Brent A .....	12/18/2017
TE11182C-0 .....	HCP .....	Colich, Joe .....	3/1/2017
TE15009C-0 .....	HCP .....	Coral Reef Retail, LLC, Coral Reef RESI PH1, LLC, University of Miami .....	12/5/2017
TE18547C-0 .....	HCP .....	Covington, Thomas R .....	3/24/2017
TE23539C-0 .....	HCP .....	Cummings, George D .....	3/10/2017
TE76592B-1 .....	HCP .....	Cummins, Betty .....	9/22/2017
TE24111C-0 .....	HCP .....	Dean, Russell Edward .....	4/3/2017
TE14819C-0 .....	HCP .....	Duke Energy Florida, LLC .....	5/23/2017
TE151089-2 .....	HCP .....	Eber Cove Investments, LLC .....	7/7/2017
TE42764C-0 .....	HCP .....	Elle Fish Design, LLC .....	8/2/2017
TE86572B-1 .....	HCP .....	Englebert, Donald D .....	9/22/2017
TE101841-1 .....	HCP .....	Fennell, James Greg .....	11/17/2017
TE24770C-0 .....	HCP .....	Finn, Matthew David .....	4/6/2017
TE97201B-0 .....	HCP .....	Florida Department of Transportation .....	7/28/2017
TE88370B-0 .....	HCP .....	Francis, Conrad H .....	9/27/2017
TE101842-2 .....	HCP .....	Gable, Anthony Kent .....	3/20/2017
TE22698C-0 .....	HCP .....	Grant, Rodrick E .....	3/24/2017
TE32251C-0 .....	HCP .....	Hanover Capital Partners, LLC .....	12/1/2017
TE56970C-0 .....	HCP .....	Harrison, William Gary .....	10/13/2017
TE23538C-0 .....	HCP .....	Hulsart, Bruce W .....	3/20/2017
TE12514C-0 .....	HCP .....	Ira Innovations, LLC .....	2/6/2017
TE25021C-0 .....	HCP .....	Jellison, Peter S .....	4/19/2017
TE11097C-0 .....	HCP .....	Jones, Charles L .....	1/17/2017
TE18546C-1 .....	HCP .....	Leasure, Anthony M .....	2/17/2017
TE84215B-1 .....	HCP .....	Little Lagoon Cottages, LLC .....	8/22/2017
TE42765C-0 .....	HCP .....	Lottaland, Inc .....	9/8/2017
TE135281-1 .....	HCP .....	Lowe, Edward Dewayne .....	7/21/2017
TE156573-1 .....	HCP .....	Manning, Ryan H .....	11/17/2017
TE087068-1 .....	HCP .....	Marion, Troy Lee .....	9/8/2017
TE14817C-0 .....	HCP .....	Mattamy Orlando, LLC .....	4/25/2017
TE14818C-0 .....	HCP .....	Mattamy Orlando, LLC .....	4/25/2017
TE58959C-0 .....	HCP .....	Maxwell, Stephen R .....	11/2/2017
TE24376C-0 .....	HCP .....	Micco Road Investments, LLC, and Atlantic Coast Paladin Estates, LLC .....	8/21/2017
TE22684C-0 .....	HCP .....	Midway Coastal Investments .....	3/13/2017
TE101843-1 .....	HCP .....	Nelson Holdings, LLC .....	3/13/2017
TE19759C-0 .....	HCP .....	New Beginnings of Central Florida, Inc .....	5/11/2017
TE218224-2 .....	HCP .....	Nickles, Joel A .....	8/1/2017
TE39111C-0 .....	HCP .....	Orange Dale Venture, LLC .....	12/27/2017
TE32252C-0 .....	HCP .....	Palmetto Babson Park-scenic Hwy 17, LLC .....	11/17/2017
TE078721-1 .....	HCP .....	Perrino, Ralph .....	7/21/2017
TE54007C-1 .....	HCP .....	RFC, LLC .....	12/15/2017
TE078829-1 .....	HCP .....	Ryder, Jeffery A .....	5/12/2017
TE42792C-0 .....	HCP .....	Saint Gemma Properties .....	9/8/2017
TE14814C-1 .....	HCP .....	Salvant, Paul P .....	10/13/2017
TE218362-1 .....	HCP .....	Samson, Scott .....	2/15/2017
TE22682C-0 .....	HCP .....	Saverio Vacation Rentals, LLC .....	5/8/2017
TE42767C-0 .....	HCP .....	Scruggs, John E .....	7/24/2017
TE11085C-0 .....	HCP .....	Sedrak Partners Ltd .....	1/27/2017
TE218277-2 .....	HCP .....	Smith, David Edward .....	2/1/2017
TE42768C-0 .....	HCP .....	Smith, Joseph James .....	8/2/2017
TE218248-1 .....	HCP .....	Stender, William H .....	5/15/2017
TE070602-1 .....	HCP .....	Valentine, Jeff P .....	1/20/2017
TE218288-1 .....	HCP .....	Wales, Jason R .....	7/21/2017

Permit No.	Plan or agreement type	Permittee	Date issued
TE131058-1 .....	HCP .....	Whitfield, Nancy E .....	11/2/2017
TE32249C-0 .....	HCP .....	17-92, LLC .....	12/1/2017
TE72196B .....	CCAA .....	Florida Armory Board .....	2/1/2017

*Region 5 (Northeast Region: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia)*

information about the permit, contact the HCP Permit Coordinator by email at [martin\\_miller@fws.gov](mailto:martin_miller@fws.gov) or by telephone at 413-253-8615.

The following permit was applied for and issued in Region 5. For more

Permit No.	Plan or agreement type	Permittee	Date issued
TE13435C .....	HCP .....	Slack Chemical Company .....	1/26/2017

*Region 6 (Mountain-Prairie Region: Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming)*

information about any of the following permits, contact the HCP or CCAA Permit Coordinator by email at [amelia\\_orton-palmer@fws.gov](mailto:amelia_orton-palmer@fws.gov) or by telephone at 303-236-4211.

The following permits were applied for and issued in Region 6. For more

Permit No.	Plan or agreement type	Permittee	Date issued
TE070004-2 .....	HCP .....	Stimson Lumber Company .....	10/25/2017
TE034609-3 .....	HCP .....	Weyerhaeuser Company .....	10/25/2017
TE95812B-0 .....	CCAA .....	Thunder Basin Grasslands Prairie Ecosystem Association .....	3/1/2017

*Region 7 (Alaska Region)*

No ITPs or enhancement of survival permits for CCAAs or SHAs were applied for in Region 7.

*Region 8 (Pacific Southwest Region: California, Nevada, and the Klamath Basin Portion of Oregon)*

The following permits were applied for and issued in Region 8. For more

information about any of the following permits, contact the HCP Permit Coordinator by email at [dan\\_cox@fws.gov](mailto:dan_cox@fws.gov).

Permit No.	Plan or agreement type	Permittee	Date issued
TE57028C-0 .....	HCP .....	BAE Systems, Platforms and Services .....	9/2/17
TE62704C-0 .....	HCP .....	Betteravia Ranches, LLC .....	11/27/17
TE29065C-0 .....	HCP .....	Broadway 11, LLC .....	8/3/17
TE42935C-0 .....	HCP .....	California Flats Solar 130, LLC .....	10/10/17
TE62355C-0 .....	HCP .....	Campbell, Robert C .....	11/27/17
TE50775C-0 .....	HCP .....	CED Lost Hills Solar, LLC .....	11/8/17
TE62701C-0 .....	HCP .....	Highlands at Double R, LLC .....	12/1/2017
TE16913C-0 .....	HCP .....	Laguna County Sanitation District .....	8/22/2017
TE16901-C .....	HCP .....	Mammen, Kurt D .....	1/19/17
TE32842C-0 .....	HCP .....	Orange County Transportation Authority .....	6/19/17
TE56826C-0 .....	HCP .....	Pacific Gas and Electric .....	10/2/2017
TE52396C-0 .....	HCP .....	Phillips 66 (300) Pipeline, LLC .....	12/15/17
TE23515C-0 .....	HCP .....	Phillips 66 Pipeline, LLC .....	6/1/17
TE61313C-0 .....	HCP .....	Protek Investments, LLC .....	11/27/17
TE844722-0 .....	HCP .....	RMC Pacific Materials, LLC .....	4/11/2017
TE27152C-0 .....	HCP .....	Rothman, Phillip and Pamela .....	9/19/17
TE26660C-0 .....	HCP .....	San Diego Gas and Electric Company .....	3/15/17
TE58263C-0 .....	HCP .....	San Lorenzo Valley Water District .....	10/18/17
TE34995C-0 .....	HCP .....	Scotts Valley Unified School District .....	6/8/17

## Availability of Documents

The **Federal Register** documents publishing the receipt of applications for these permits may be viewed here: <https://www.fws.gov/policy/frsystem/default.cfm>. Documents and other information submitted with these applications are available for review subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552), by any party who submits a written request for a copy of such documents. For detailed information regarding a particular permit, please contact the Region that issued the permit.

## Authority

We provide this notice under the authority of section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: March 30, 2018.

Lisa Ellis,

Chief, Branch of Recovery, Conservation Planning, and Communication.

[FR Doc. 2018-10670 Filed 5-17-18; 8:45 am]

BILLING CODE 4333-15-P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

[178D0102DM, DS6CS00000, DLSN00000.000000, DX.6CS25]

### Final List of Critical Minerals 2018

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** The United States is heavily reliant on imports of certain mineral commodities that are vital to the Nation's security and economic prosperity. This dependency of the United States on foreign sources creates a strategic vulnerability for both its economy and military to adverse foreign government action, natural disaster, and other events that can disrupt supply of these key minerals. Pursuant to Executive Order 13817 of December 20, 2017, "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," the Secretary of the Interior on February 16, 2018, presented a draft list of 35 mineral commodities deemed critical under the definition provided in the Executive Order. After considering the 453 public comments received, the Department of the Interior believes that the methodology used to draft the list remains valid and hereby finalizes the draft list of 35 critical minerals. The final list includes: Aluminum (bauxite), antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt,

fluorspar, gallium, germanium, graphite (natural), hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, the rare earth elements group, rhenium, rubidium, scandium, strontium, tantalum, tellurium, tin, titanium, tungsten, uranium, vanadium, and zirconium. This list of critical minerals, while "final," is not a permanent list, but will be dynamic and updated periodically to reflect current data on supply, demand, and concentration of production, as well as current policy priorities. This final list will serve as the Department of Commerce's initial focus as it develops its report to comply with Section 4 of Executive Order 13817.

**ADDRESSES:** Public comments received on the draft list are available at [www.regulations.gov](http://www.regulations.gov) under docket number DOI-2018-0001.

**FOR FURTHER INFORMATION CONTACT:** Ryan Nichols, (202) 208-7250, [ryan\\_nichols@ios.doi.gov](mailto:ryan_nichols@ios.doi.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Nichols during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with this individual. You will receive a reply during normal business hours. Normal business hours are 9:00 a.m. to 5:30 p.m., Monday through Friday, except for Federal holidays.

**SUPPLEMENTARY INFORMATION:** Executive Order 13817, "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals" (82 FR 60835, December 26, 2017), addressed the United States' dependency on vulnerable limited and foreign supply chains of mineral commodities that are vital to the Nation's security and economic prosperity. The Executive Order directed the Secretary of the Interior, in coordination with the Department of Defense and in consultation with other executive branch agencies, to produce a list of critical minerals. The Secretary of the Interior in turn directed the U.S. Geological Survey (USGS), in coordination with the Bureau of Land Management (BLM), to provide technical input to a draft critical minerals list, and to incorporate Federal interagency input through the White House Office of Science and Technology Policy's National Science and Technology Council (NSTC) Subcommittee on Critical and Strategic Mineral Supply Chains. The NSTC Subcommittee has representation from a wide range of Federal Departments

including, but not limited to, Defense, Interior, Energy, State, Commerce, and Homeland Security.

The USGS used as a starting point for developing the draft critical mineral list the NSTC Mineral Criticality Screening Tool, which was first published by the Executive Office of the President in 2016 and updated in 2017. The tool is a quantitative methodology for identifying and ranking mineral commodities based on widely accepted criteria published in the mineral commodity literature. Using that methodology, and several other sources of data, the USGS applied two principal criteria to evaluate minerals for inclusion on the draft list of critical minerals: The Hirfındal-Hirschmann index, which measures country concentration of production, and the USGS net import reliance metric based on USGS's annual Mineral Commodities Summaries. The methodology used by the USGS to develop the draft list is described in USGS Open-File Report 2018-1021 (<https://pubs.usgs.gov/of/2018/1021/ofr20181021.pdf>).

Federal interagency feedback to Interior on the initial draft list highlighted one mineral, uranium, with both fuel and non-fuel uses, and for which Energy Information Administration data indicated high production concentration and significant import reliance. Based on those data, the USGS agreed that it would be consistent with the methodology to include uranium on the draft list for public comment.

Pursuant to Executive Order 13817, on February 16, 2018, the Secretary of the Interior published the draft list of critical minerals in the **Federal Register** (83 FR 7065). The draft list consisted of 35 minerals or mineral material groups deemed critical under the definition provided in the Executive Order: Aluminum (bauxite), antimony, arsenic, barite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, germanium, graphite (natural), hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, the rare earth elements group, rhenium, rubidium, scandium, strontium, tantalum, tellurium, tin, titanium, tungsten, uranium, vanadium, and zirconium.

The **Federal Register** notice included a 30-day public comment period, which closed on March 19, 2018. The comments are available for public viewing at [www.regulations.gov](http://www.regulations.gov) under docket DOI-2018-0001. DOI received 453 comments, including 118 comments made anonymously, 273 from individuals, and 62 submitted on behalf of organizations (20 from industry



organizations, 18 from mining companies, ten from consultants and other businesses, six from non-governmental environmental organizations, five from government agencies, and three from elected officials). The comments included 147 requests to add a total of 13 minerals to the list, with seven minerals (copper, silver, nickel, gold, zinc, molybdenum and lead) each receiving over 10 requests for addition to the list. There were 183 requests to delete one mineral (uranium) from the list.

After considering all comments received, the Department of the Interior believes that the methodology described in USGS Open-File Report 2018–1021 remains valid. Therefore, the Department of the Interior is hereby finalizing the draft list of 35 critical minerals as the final list. This list of critical minerals, while “final,” is not a permanent list, but will be dynamic and updated periodically to reflect current data on supply, demand, and concentration of production, as well as current policy priorities. This final list will serve as the initial focus for the Department of Commerce report, currently in development pursuant to Executive Order 13817.

This final list is based on the definition of a “critical mineral” provided in Executive Order 13817. The U.S. Government and other organizations may also use other definitions and rely on other criteria to identify a material or mineral as “critical” or otherwise important. This final list is not intended to replace those related terms and definitions for minerals or materials that are deemed strategic, critical or otherwise important (e.g., National Defense Stockpile). The Department of the Interior recognizes the economic significance and indispensable nature of other minerals that are produced domestically in large quantities such as copper, zinc, molybdenum, gold, silver, and industrial minerals such as phosphate, sand, gravel, and aggregate. Given current levels of domestic production, the U.S. is not highly reliant on imports for these minerals and typically has a combination of domestic reserves and reliable foreign sources adequate to meet foreseeable domestic consumption requirements. While these minerals do not currently meet the definition of critical, they are similar to critical minerals in that they are indispensable to a modern society for the purposes of national security, technology, infrastructure, and energy production (both fossil fuels and renewables). It should be noted that some potential supply chain vulnerabilities relating to

critical minerals, such as high import reliance and limited domestic capability for production of refined metals and processed alloys, extend beyond what is described here and will be addressed within the Department of Commerce report to be submitted to the President as required by Executive Order 13817. The Department of the Interior also recognizes that many public comments addressed issues not directly associated with the development of the critical minerals list. Instead, they addressed regulatory and policy issues more appropriately considered as part of the Department of Commerce report.

Those comments will be available to help inform the development of the Commerce report.

Finally, the Department of the Interior recognizes that a significant number of comments requested the removal of uranium from the list. As noted above and in USGS Open-File Report 2018–1021, input from other agencies represented on the NSTC Subcommittee on Critical and Strategic Mineral Supply Chains emphasized that uranium, while primarily known as a fuel mineral, also has important non-fuel uses, and otherwise meets the criteria for inclusion.

The NSTC Mineral Criticality Screening Tool was designed as an early warning screening tool that identifies potentially critical minerals using regularly-reported and publicly-available data. The screening tool was designed so that potential mineral criticality could be evaluated in a repeatable and transparent manner, on an ongoing basis. This tool is updated annually by the USGS on behalf of the NSTC Subcommittee when USGS releases a new year of mineral production and price data. This systematic, annual collection, analysis, and publication of mineral information is the foundation for the analysis of present-day security of supply for minerals and mineral materials and of changes in the security of supply over time. With this basis, the finalized list of critical minerals provides a starting point for developing a new Federal strategy and a continuing process to strengthen supply chains. The finalized list does not foreclose later addition of minerals that become critical in the future due to advances in technology, natural disasters, world events, and other factors influencing the security of supply and demand.

As part of developing the new Federal strategy, Executive Order 13817 and Secretary’s Order 3359, “Critical Mineral Independence and Security” (December 21, 2017), direct further efforts to assess potential domestic

critical mineral resources above ground and below ground, and to examine Federal leasing and permitting processes to expedite access to these potential resources. Because the critical minerals on the final list are administered under existing mineral disposal laws and regulations, any recommendations to improve permitting processes for those critical minerals will improve permitting processes for all minerals administered under the same laws and regulations by the Bureau of Land Management and other Federal land management agencies.

The Department of the Interior recognizes that many commodities are not mined directly, but are instead recovered during the processing, smelting, or refining of a host material and are, therefore, deemed “byproducts.” Of the 35 minerals deemed critical, 12 are byproducts. Therefore, strategies to increase the domestic supply of these commodities must necessarily consider the mining and processing of the host materials because enhanced recovery of byproducts alone may be insufficient to meet U.S. consumption.

**Authority:** E.O. 13817, 82 FR 60835 (December 26, 2017).

**Timothy R. Petty,**

*Assistant Secretary for Water and Science.*

[FR Doc. 2018–10667 Filed 5–17–18; 8:45 am]

**BILLING CODE 4334–63–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

[18XD0120AF/DT11100000/  
DST000000.54AB00; OMB Control Number  
1035—New]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Trust Evaluation System

**AGENCY:** Office of the Special Trustee for American Indians, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Special Trustee for American Indians (OST, we), are proposing a new information collection. **DATES:** Interested persons are invited to submit comments on or before June 18, 2018.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget’s Desk Officer for the Department of the Interior by email at

*OIRA\_Submission@omb.eop.gov*; or via facsimile to (202) 395-5806. Please provide a copy of your comments to Ronald L. Hunt, Federal Information Resources Director, Department of the Interior, Office of the Special Trustee for American Indians, Office of Information Resources, 4400 Masthead Street NE, Albuquerque, NM 87109; or by email to *Ronald\_Hunt@ost.doi.gov*, or by telephone at (505) 816-1258. Please reference OMB Control Number 1035-OST in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Cecilia Smith, Management & Program Analyst, OST, Program Management, by email at *Cecilia\_Smith@ost.doi.gov*, or by telephone at (505) 816-1259. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 25, 2015 (80 FR 30485). No comments were received in response to that notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OST; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OST enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OST minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made

publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** The Office of the Special Trustee for American Indians (OST) is responsible for overseeing the implementation of trust reforms, trust accounting and coordination of trust policies intra-bureau-wide related to the management of Indian trust funds and assets; see 25 U.S.C. 4041. The OST, Office of Trust Review and Audit (OTRA) is responsible for performing trust examinations, evaluations and assessments of Indian trust programs and functions, pursuant to executive direction by the Secretary of the Interior. In addition, OTRA has a congressional mandate to conduct Annual Tribal Trust Evaluations for Tribes that compact trust programs, functions, services, and/or activities under Public Law 93-638 Self-Governance Compacts on behalf of the Secretary of the Interior. This authority is in 25 U.S.C. 5363(d)(1) & (2) and the enabling regulations in 25 CFR 1000.350. OTRA currently collects Indian trust data and documentation from Tribes and Agencies in fulfillment of performing the Indian trust examinations on Federal Agencies and Tribal trust evaluations for compacted Tribes. This collection is enabled by performing desk reviews (via email electronic questionnaires), and on-site visits to Tribes and Federal agencies (although Federal agencies are exempt from the provisions of the PRA).

Under 25 CFR 1000.355, the Secretary's designated representative will conduct trust evaluations for each self-governance tribe that has an annual funding agreement. The end result is the issuance of a report, which is required by 25 CFR 1000.365. Currently, Department of the Interior, OST-OTRA, conducts an on-site review of trust operations where a tribe has compacted a trust program. During that review, under current methodology, interviews are conducted and documents are requested on-site. Information collected is then brought back to the Albuquerque office and analyzed. A draft report is written and provided to the tribe for comment where applicable, comments received back are incorporated into the report, and a final report is issued to the tribe.

OTRA is changing the method of collecting information from an on-site manual audit data collection method to a web-based automated audit data collection and audit management tool, called the Trust Evaluation System

(TES). Currently OTRA travels to the audit location and uses a Thomas Reuters audit software solution called Auto Audit to manage the data collected in the field and the audit. TES, a web-based tool, will be cloud hosted and will be interactive with the Auditor, Tribes and Agencies throughout the evaluation process in conducting the trust examinations, tribal trust evaluations, and trust records assessments, via the web, as desktop reviews.

OST will be collecting the same data it currently collects manually, but will utilize electronic questionnaires and document uploads from Tribes and Federal agencies, via the web in TES, to complete the evaluations and examinations it currently conducts. This method will be implemented to replace the desktop reviews and/or traveling to each location to conduct these audits. Some audits will be still be conducted on-site, but only for high-risk locations. OTRA's audit universe consists of up to 300 audits on 3-5 year audit cycle for OST and Bureau of Indian Affairs (BIA) offices throughout the greater United States and Alaska.

*Title of Collection:* Trust Evaluation System.

*OMB Control Number:* 1035-New.

*Form Number:* None.

*Type of Review:* Existing collection in use without OMB approval.

*Respondents/Affected Public:* Tribes that have an annual funding agreement in place to compact Indian trust programs.

*Total Estimated Number of Annual Respondents:* 80 Tribes. Federal agencies are exempt from the PRA and are not included in the total annual respondents/responses/burden hours estimates.

*Total Estimated Number of Annual Responses:* 1,280.

*Estimated Completion Time per Response:* 2 hours for reporting and 1 hour for recordkeeping.

*Total Estimated Number of Annual Burden Hours:* 3,840.

*Respondent's Obligation:* Mandatory.

*Frequency of Collection:* Once per fiscal or calendar year (year the respective tribe operates under).

*Total Estimated Annual Non-hour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Jerold Gidner,**

*Principal Deputy Special Trustee, Office of the Special Trustee for American Indians.*

[FR Doc. 2018-10596 Filed 5-17-18; 8:45 am]

BILLING CODE 4334-63-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCAD06000 L51010000.ER0000  
LVRWB17B5480 17X]

#### Notice of Availability of the Final Supplemental Environmental Impact Statement and Environmental Impact Report and Proposed Land Use Plan Amendment to the California Desert Conservation Area Plan for the Palen Solar Project, California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Supplemental Environmental Impact Statement (EIS) and Proposed Land Use Plan Amendment to the California Desert Conservation Area (CDCA) Plan for the Palen Solar Project, and by this notice is announcing its availability. This document is also an Environmental Impact Report (EIR) prepared by Riverside County under the California Environmental Quality Act (CEQA).

**DATES:** BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed Land Use Plan Amendment and Final Supplemental EIS. A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

**ADDRESSES:** Copies of the Final Supplemental EIS and Proposed Land Use Plan Amendment have been sent to affected Federal, State, local, and tribal government agencies and to other stakeholders. Copies of the Final Supplemental EIS and Proposed Land Use Plan Amendment are available for public inspection at the BLM-Palm Springs South Coast Field Office at 1201 Bird Center Dr., Palm Springs, CA 92262 and at the BLM-California Desert

District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553. Interested persons may also review the Final Supplemental EIS and Proposed Land Use Plan Amendment on the internet at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=68122>. All protests must be in writing and mailed to one of the following addresses:

- **Regular Mail:** BLM Director (210), Attention: Protest Coordinator, P.O. Box 71383, Washington, DC 20024-1383.
- **Overnight Delivery:** BLM Director (210), Attention: Protest Coordinator, 20 M Street SE, Room 2134LM, Washington, DC 20003.

#### FOR FURTHER INFORMATION CONTACT:

Mark DeMaio, BLM Project Manager, telephone (760) 833-7124; address Bureau of Land Management, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262; email [mdemaio@blm.gov](mailto:mdemaio@blm.gov).

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** EDF Renewable Energy has applied for a Right-of-Way (ROW) from the BLM to construct, operate, maintain, and decommission a 500 megawatt (MW) solar photovoltaic facility near Desert Center, Riverside County, California. The ROW application area comprises about 4,200 acres, with a proposed project footprint of about 3,400 acres. The proposed project also includes construction of a 6.7-mile single circuit 230 kilovolt generation interconnection (gen-tie) transmission line connecting the project to the Southern California Edison (SCE) Red Bluff Substation. The BLM is also considering an amendment to the CDCA Plan that would be necessary to authorize the project. This is a joint EIS/EIR for compliance with NEPA and CEQA. Riverside County is the lead agency under CEQA.

This Project application was originally submitted in 2007 as the Palen Solar Power Project (PSPP) by Palen Solar I, LLC (PSI), a wholly owned subsidiary of Solar Millennium. The PSPP was proposed as a solar trough project, and was the subject of an EIS under NEPA. The BLM, pursuant to its obligations under FLPMA and NEPA, published a Draft EIS, followed by a

Proposed CDCA Plan Amendment and Final EIS on May 13, 2011 (76 FR 28064). Before the BLM issued a Record of Decision (ROD), PSI informed the BLM that it would not construct the Project due to bankruptcy. As a result, the BLM did not issue a ROD, did not amend the CDCA Plan, and did not issue a ROW grant for the PSPP. On June 21, 2012, the bankruptcy court approved the transfer of the application from PSI to Palen Solar III, LLC (PSIII). BrightSource Energy Inc. (BSE) then acquired all rights to PSIII at auction. PSIII submitted a revised ROW application to the BLM for the Palen Solar Electricity Generating System Project (PSEGS), a 500 MW concentrating solar power tower technology facility and single-circuit 230 kV gen-tie line. On July 27, 2013, the BLM issued a Draft Supplemental EIS and Plan Amendment to evaluate the potential additional environmental impacts caused by PSEGS. As part of the state permitting process, the California Energy Commission evaluated the PSEGS under CEQA, and issued Preliminary and Final Staff Assessments for the amended project in June and November of 2013, respectively. The BLM did not issue a Final Supplemental EIS for the PSEGS Project because BSE and its partner, Abengoa Solar Inc., abandoned the State authorization proceedings at the California Energy Commission. In December 2015, EDF Renewable Energy acquired the PSEGS application. EDF Renewable Energy has submitted a revised ROW application for the Proposed Project, which is analyzed in this Final Supplemental EIS/EIR and Proposed Land Use Plan Amendment.

The BLM held public meetings on the revised ROW application in June and August 2016 in Palm Springs, California. On October 27, 2017, the BLM issued the Draft Supplemental EIS/EIR and Draft Land Use Plan Amendment, which analyzed the impacts of the Proposed Action and two action alternatives, in addition to a No Action Alternative. Alternative 1, Reduced Footprint, would be a 500 MW Photovoltaic (PV) array on about 3,100 acres. It avoids the central and largest desert wash and incorporates a more efficient use of the land for the solar array. Alternative 2, Avoidance Alternative, would be a solar PV project on about 1,620 acres (160 to 230 MW). Like the Proposed Action, under each of these alternatives, the BLM would amend the CDCA Plan to allow the project. Under the No-Action Alternative, the BLM would deny the

ROW application, and would not amend the CDCA Plan to allow the project.

The Draft Supplemental EIS/EIR and Draft Land Use Plan Amendment included analysis of the revised ROW application as it related to the following issues: (1) Updated description of the Proposed Project, based on the revised ROW application; (2) Impacts to cultural resources and tribal concerns; (3) Impacts to the Sand Transport Corridor and Mojave fringe-toed lizard habitat and washes; (4) Impacts to Joshua Tree National Park; (5) Impacts to avian species; (6) Impacts to visual resources; and (7) Relationship between the proposed project and the California Desert Conservation Area (CDCA) Plan, including the amendment to the CDCA Plan by the 2016 Desert Renewable Energy Conservation Plan.

A Draft Supplemental EIS/EIR was released in October 2017, which included a formal 45-day public comment period. The BLM held a public meeting on November 14, 2017, in Palm Desert, CA. Fourteen individuals attended that meeting. The BLM received 40 comment letters during the comment period.

Comments on the Draft Supplemental EIS/EIR and Draft Land Use Plan Amendment received from the public and internal agency review were considered and incorporated as appropriate into the proposed plan amendment. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use plan decisions. A response to substantive comments is included in the Final Supplemental EIS/EIR and Proposed Land Use Plan Amendment. The BLM has selected Alternative 1, the Reduced Footprint, as the Agency Proposed Alternative in the Final Supplemental EIS/EIR and Proposed Land Use Plan Amendment.

Instructions for filing a protest with the Director of the BLM regarding the Proposed Land Use Plan Amendment/ Final Supplemental EIS may be found in the "Dear Reader" Letter of the Final Supplemental EIS/EIR and Proposed Land Use Plan Amendment and at 43 CFR 1610.5-2. All protests must be in writing and mailed to the appropriate address, as set forth in the ADDRESSES section above. Emailed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular mail or overnight delivery postmarked by the close of the protest period. Under these conditions, the BLM will consider the email as an advanced copy, and it will receive full consideration. If you wish to provide the BLM with such advance

notification, please direct emails to: [protest@blm.gov](mailto:protest@blm.gov).

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5.

**Danielle Chi,**

*Deputy State Director.*

[FR Doc. 2018-10574 Filed 5-17-18; 8:45 am]

**BILLING CODE 4310-40-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[17XL5017AP LLUTG01100  
L51010000.ER0000.LVRWJ17J8060]

#### Notice of Availability of the Final Environmental Impact Statement for the Enefit American Oil Utility Corridor Project, Uintah County, Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a final Environmental Impact Statement (EIS) for the Enefit American Oil Utility Corridor Project (Utility Corridor Project) and is announcing a 45-day wait period before making any final decisions.

**DATES:** The BLM will not issue a final decision on the proposal for a minimum of 45 days after the date on which the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the final EIS in the **Federal Register**.

**ADDRESSES:** Copies of the Enefit American Oil Utility Corridor Project final EIS are available for public inspection in the BLM Vernal Field Office at 170 South 500 East Vernal, Utah 84078. Interested persons may also review the final EIS on the internet at <http://go.usa.gov/csa9j>.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Howard, NEPA Coordinator; telephone 435-781-4469; address 170

South 500 East Vernal, Utah 84078; email [BLM\\_UT\\_Vernal\\_Comments@blm.gov](mailto:BLM_UT_Vernal_Comments@blm.gov). Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** Enefit American Oil (Enefit) submitted five right-of-way applications to the BLM which are collectively known as the Utility Corridor Project. The Project Area is located in the southern portion of Townships 8-10 South, Ranges 24-25 East, Salt Lake Meridian, in Uintah County, Utah, approximately 40 miles south of Vernal, Utah. The entire project area is located within the original extent of the Uinta and Ouray Reservation.

The purpose of this Federal action is to respond to the applicant's right-of-way applications for construction, operation, and maintenance of the Utility Corridor Project infrastructure across Federal land. FLPMA provides the BLM with discretionary authority to grant use of public lands, including rights-of-way, taking into consideration impacts on natural, cultural, and historical resources.

The BLM is the lead Federal agency for this EIS as defined at 40 Code of Federal Regulations (CFR) Part 1501.5. Cooperating agencies include the U.S. EPA Region 8, the U.S. Army Corps of Engineers Utah Regulatory Office, the U.S. Fish and Wildlife Service (USFWS) Utah Field Office, the State of Utah's Public Lands Policy and Coordination Office, and Uintah County. In accordance with NEPA, the BLM prepared an EIS analyzing the right-of-way applications using an interdisciplinary approach in order to consider a variety of resource issues and concerns identified during internal, interagency, and public scoping. On April 8, 2016, the BLM published in the **Federal Register** (81 FR 20671) a NOA of the Draft EIS for public review and comment. The EPA published in the **Federal Register** (81 FR 22263) a NOA of the draft EIS for public review and comment on April 15, 2016, which initiated the 60-day public comment period. To allow the public an opportunity to review information associated with the utility corridor project and comment on the draft EIS, the BLM conducted three open-house meetings in May 2016 in Vernal and Salt Lake City, Utah and in Rangely, Colorado. During the comment period,

the BLM received 69 comment letters on the draft EIS from Federal, State, and local agencies; public and private organizations; and individuals. In addition, approximately 15,500 form letters were sent to the BLM from various organizations. Additional comments from a special interest group were submitted after the comment period closed, but were included in the comment response effort, bringing the total of unique comment submittals to 70. The 70 comment submittals contained 241 substantive comments. Principal issues identified in the comments received by BLM included: Utility corridor project description, alternatives considered, air quality, and impacts on sensitive plant species.

The BLM responded to comments received on the draft EIS in the final EIS. As a result of the comments, the presentation order of the EIS has been changed to clarify the project description and resulting impacts. No significant new information was identified that necessitated a supplemental draft EIS.

The final EIS describes and analyzes the impacts of the utility corridor project and the No Action Alternative. The following is a summary of the alternatives:

**Proposed Action**—The proposed action consists of five right-of-way applications: 19 Miles of water supply line (116 acres); 8.8 miles of buried natural gas supply line (52.6 acres); 11.2 miles of buried oil product line (68.3 acres); 5.7 miles of Dragon Road upgrade and pavement (41.7 acres); and 30 miles of 138-kV power lines (501.4 acres). The proposed action also includes the utilization of some temporary lay-down areas during construction of the pipelines (31.2 acres).

**No Action Alternative**—Under the No Action Alternative, the right-of-way applications listed in the Proposed Action Alternative would be denied.

The final EIS contains detailed analysis of direct and indirect impacts from the Proposed Action to: Air quality including greenhouse gases, soils including biological soils, vegetation including weeds, minerals, surface waters, wildlife, special status plants and animals, cultural, paleontological, and visual resources as well as lands and access, recreation and travel management, and local social and economic resources.

After the final waiting period, and based on the environmental analysis in the final EIS, the BLM will prepare a Record of Decision (ROD) documenting the BLM Authorized Officer's decision

whether to authorize, authorize with modifications, or deny the applications.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10.

**Edwin L. Roberson,**  
State Director.

[FR Doc. 2018–10573 Filed 5–17–18; 8:45 am]

**BILLING CODE 4310–DQ–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–603–605 and 731–TA–1413–1415 (Preliminary)]

### Glycine From China, India, Japan, and Thailand

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of glycine from India, Japan, and Thailand, provided for in subheading 2922.49.4300 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (“LTFV”) and imports of glycine that are alleged to be subsidized by the governments of China, India, and Thailand.

#### Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations

have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

#### Background

On March 28, 2018, GEO Specialty Chemicals (“GEO”), Inc., Lafayette, Indiana, and Chattem Chemicals Inc. (“Chattem”), Chattanooga, Tennessee filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of glycine from India, Japan, and Thailand and subsidized imports of glycine from China, India, and Thailand. Accordingly, effective March 28, 2018, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation Nos. 701–TA–603–605 and antidumping duty investigation Nos. 731–TA–1413–1415 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 3, 2018 (83 FR 14291). The conference was held in Washington, DC, on April 18, 2018, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on May 14, 2018. The views of the Commission are contained in USITC Publication 4786 (May 2018), entitled *Glycine from China, India, Japan, and Thailand: Investigation Nos. 701-TA-603-605 and 731-TA-1413-1415 (Preliminary)*.

By order of the Commission.

Issued: May 14, 2018.

**Lisa Barton,**

Secretary to the Commission.

[FR Doc. 2018–10598 Filed 5–17–18; 8:45 am]

**BILLING CODE 7020–02–P**

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

**NATIONAL SCIENCE FOUNDATION****Notice of Intent To Seek Approval To Establish an Information Collection****AGENCY:** National Science Foundation.**ACTION:** Notice and request for comments.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request establishment and clearance of this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than one year.

**DATES:** Written comments on this notice must be received by July 17, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

*For Additional Information, Contact:* Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Room W 18000, Alexandria, Virginia 22314; or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

*Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

**SUPPLEMENTARY INFORMATION:**

*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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (d) ways to 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.

*Title of Collection:* Evaluation of the Centers for Chemical Innovation (CCI) Program Surveys and Interviews.

*OMB Number:* 3145-NEW.

*Expiration Date of Approval:* Not applicable.

**Abstract**

The National Science Foundation (NSF) seeks to conduct new data collection activities, consisting of deploying two surveys and four interview protocols, that will provide critical evidence needed for the Evaluation of the Chemical Centers for Innovation.

The National Science Foundation established the Centers for Chemical Innovation (CCI) Program (formerly known as Chemical Bonding Centers) in 2004 to support research centers focused on major, long-term fundamental chemical research challenges. The goals that NSF set forth for the CCI Program include that Centers will (a) produce transformative research, leading to innovation, and attract broad scientific and public interest; (b) be agile structures that can respond rapidly to emerging opportunities through enhanced collaborations; and (c) integrate research, innovation, education, broaden participation, and informal science communication.

The NSF Division of Chemistry has undertaken a comprehensive assessment to evaluate the effectiveness of the Centers for Chemical Innovation (CCI) program—with specific focus on its investment in Phase 2 Centers—in achieving its stated goals. As this is the first assessment of the CCI program, new data collection is necessary to provide critical evidence to assess the CCI Program's progress in achieving its goals, to communicate the outcomes of the program, and to inform improvements in CCI Program and Center-level design and operation. Across the NSF, the evaluation will also inform planning decisions about the center concept and funding mechanisms. Additionally, the evaluation findings will be used to communicate the outcomes of the CCI program to the wider chemistry community.

The new data collection consists of the following four new data collection activities:

1. CCI Principal Investigator (PI) and Co-Investigator (Co-I) Survey. Administration of a survey to CCI PIs

and Co-Investigators is necessary to understand the role of the Center in research, collaboration, and broader impacts; to assess grantee satisfaction with the center structure, management, and a two-phase funding model; to document outcomes; and to describe the challenges encountered. The survey was previously tested under a Fast Track clearance, OMB Control #3145-0215.

2. CCI Phase 2 Principal Investigator (PI) and Co-Investigator (Co-I) Interview. Interviews with CCI Phase 2 PIs and a sample of Co-Investigators are necessary to further explore the data that emerge from the survey of CCI Phase 2 Center PIs and Co-Investigators.

3. CCI Graduate Student and Postdoctoral Researcher Survey. Administration of a survey to CCI graduate students and postdoctoral researchers are needed to understand the role of CCI in education, training, and career development. The survey was previously tested under a Fast Track clearance, OMB Control #3145-0215.

4. CCI Center Industry Partners Interview. Interviews with CCI Center industry partners are necessary to explore innovation-related knowledge exchange with Centers, other benefits of partnership, as well as perspectives on CCI contributions to chemistry and society.

**Estimate of Burden**

The CCI Principal Investigators (PI) and Co-Investigator (Co-I) Survey is expected to approximately 20 minutes each to complete. The CCI Graduate Student and Postdoctoral Researcher Survey is expected to approximately 15 minutes each to complete.

Interviews with CCI Phase 2 Center PIs and Co-Investigators will take approximately 45 minutes each. Interviews with CCI Center Industry Partners will take approximately 20 minutes each.

Fewer than 25 CCI Phase 2 Center PIs and Co-Investigators will receive requests to complete both a survey and an interview.

*Respondents:* Individuals.

*Estimated Number of Respondents:* 472 hours.

*Estimated Total Annual Burden on Respondents:* 472 hours.

*Frequency of Responses:* Single data collection.

Dated: May 15, 2018.

**Suzanne H. Plimpton,**  
Reports Clearance Officer, National Science Foundation.

[FR Doc. 2018-10623 Filed 5-17-18; 8:45 am]

**BILLING CODE 7555-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2018-0001]

**Sunshine Act Meetings**

**DATE:** Weeks of May 21, 28, June 4, 11, 18, 25, 2018.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of May 21, 2018**

There are no meetings scheduled for the week of May 21, 2018.

**Week of May 28, 2018—Tentative**

There are no meetings scheduled for the week of May 28, 2018.

**Week of June 4, 2018—Tentative**

*Wednesday, June 6, 2018*

2:00 p.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Sally Wilding: 301-287-0596)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

**Week of June 11, 2018—Tentative**

There are no meetings scheduled for the week of June 11, 2018.

**Week of June 18, 2018—Tentative**

*Tuesday, June 19, 2018*

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Joanna Bridge: 301-415-4052)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

*Thursday, June 21, 2018*

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Paul Michalak: 301-415-5804)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

**Week of June 25, 2018—Tentative**

There are no meetings scheduled for the week of June 25, 2018.

\* \* \* \* \*

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301-415-0681 or via email at [Denise.McGovern@nrc.gov](mailto:Denise.McGovern@nrc.gov).

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the internet

at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

\* \* \* \* \*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301-287-0739, by videophone at 240-428-3217, or by email at [Kimberly.Meyer-Chambers@nrc.gov](mailto:Kimberly.Meyer-Chambers@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

\* \* \* \* \*

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or you may email [Patricia.Jimenez@nrc.gov](mailto:Patricia.Jimenez@nrc.gov) or [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov).

Dated: May 16, 2018.

**Glenn Ellmers,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2018-10769 Filed 5-16-18; 4:15 pm]

**BILLING CODE 7590-01-P**

**POSTAL SERVICE****International Product Change—Global Plus 4**

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add the Global Plus 4 product to the Competitive Products List.

**DATES:** *Date of notice:* May 18, 2018.

**FOR FURTHER INFORMATION CONTACT:** Kyle R. Coppin, 202-268-2368.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on May 10, 2018, it filed with the Postal Regulatory Commission a Request of the United States Postal Service to add Global Plus 4 to the Competitive Products List. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2018-150 and CP2018-216.

**Ruth B. Stevenson,**

*Attorney, Federal Compliance.*

[FR Doc. 2018-10635 Filed 5-17-18; 8:45 am]

**BILLING CODE 7710-12-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-83229; File No. SR-BX-2018-019]

**Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Order Spread Protection and Reorganize Rule Chapter VI, Section 18 Entitled, "Order Price Protections"**

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 7, 2018, Nasdaq BX, Inc. ("BX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend the Market Order Spread Protection and reorganize Rule Chapter VI, Section 18 entitled, "Order Price Protections."

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqbx.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.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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 purpose of the proposed rule change is to amend Chapter VI, Section 18, entitled, "Order Price Protection" to "Risk Protections" and relocate all the order protections into a single rule and categorize them as either order protections, order and quote protections or market maker protections. The Exchange believes that placing all the order protections into a single rule will provide market participants with information as to the availability of these protections, which are all mandatory. The Exchange also proposes to amend the Market Order Spread Protection and Acceptable Trade Range Rules to add more specificity.

Universal Amendments

The Exchange proposes to restructure Chapter VI, Section 18 into three parts: (1) Order protections; (2) order and quote protections; and (3) market maker protections. The Exchange proposes to reletter and renumber the rule as well to provide a more organized structure. The Exchange believes that categorizing the various protections provides more information to market participants as to each of the risk protections.

Order Price Protection

The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to Order Price Protection.

Market Order Spread Protection

The Exchange proposes to relocate the Market Order Spread Protection rule from Chapter VI, Section 6(c) into Chapter VI, Section 18. The Exchange also proposes to amend the Market Order Spread Protection at proposed Chapter VI, Section 18(a)(2) by adding an additional sentence stating, "Market Order Spread Protection shall not apply to the Opening Process and during a halt." Today, the Market Order Spread Protection does not apply during the Opening Process and during a trading halt. The Exchange is adding this additional specificity to the rule to make clear when the protection is operative.

Both the Opening Process and trading halts have the same or more restrictive boundaries as those proposed for the Market Order Spread Protection. With respect to the Opening Process, a Valid Width National Best Bid or Offer is required. A Valid Width National Best

Bid or Offer" or "Valid Width NBBO" shall mean the combination of all away market quotes and any combination of BX Options-registered Market Maker orders and quotes received over the SQF Protocols within a specified bid/ask differential as established and published by the Exchange.<sup>3</sup> The Valid Width NBBO will be configurable by underlying, and tables with valid width differentials will be posted by Nasdaq on its website.<sup>4</sup> The Exchange's threshold for the Market Order Spread Protection is currently set at \$5.<sup>5</sup> Today, the maximum bid/ask differentials are more restrictive for both Special Penny, Penny and Non-Penny issues (up to \$1.60, \$2.00 and \$2.25, respectively, for the bid/ask differentials). The Exchange believes that the Market Order Spread Protection is unnecessary during the Opening Process because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

As provided in Chapter V, Section 4 trading halts are subject to the reopening process as provided for in Chapter VI, Section 8. The same protections noted for the Opening Process above will apply for trading halts. The Exchange believes that the Market Order Spread Protection is unnecessary during a trading halt because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

Acceptable Trade Range

The Exchange proposes to relocate the Acceptable Trade Protection from Chapter VI, Section 10(7) into Chapter VI, Section 18(b)(1). The Exchange also proposes to note more specifically within the rule that this risk protection applies to both quotes and orders. Today, the rule only refers to "orders" in a few places. The Exchange proposes to note "order/quotes" in those instances to make clear that both orders and quotes are protected. This addition and the categorization proposed within this rule change should make that this protection more transparent.

<sup>3</sup> Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker orders or quotes on BX Options are crossed internally, then all such orders and quotes will be excluded from the Valid Width NBBO calculation. See BX Chapter VI, Section 8(a)(6).

<sup>4</sup> The table with the differentials is published on the Exchange's website at: [http://www.nasdaqtrader.com/content/technicalsupport/BXOptions\\_SystemSettings.pdf](http://www.nasdaqtrader.com/content/technicalsupport/BXOptions_SystemSettings.pdf).

<sup>5</sup> The current Market Order Spread Differential is set at \$5. The table in note 4 above notes the current setting.

Anti-Internalization

The Exchange proposes to relocate the Anti-Internalization Protection from Chapter VI, Section 10(6) into Chapter VI, Section 18(c)(1). The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to the Anti-Internalization rule. The Exchange also notes that the word "exception" is being removed from this rule to conform the rule text to the remainder of the rule.

Automated Removal of Quotes and Orders

The Exchange proposes to relocate the Automated Removal of Quotes and Orders from Chapter VII, Section 6(f) into Chapter VI, Section 18(c)(2). The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to the Automated Removal of Quotes and Orders rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> 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, by grouping the various order protections applied on BX into a single rule for ease of reference and adding headers to the rule to make clear whether the risk protection is an order, quote or order and market maker protection. The Exchange believes the reorganization of the existing rule and relocation of various rules into Rule Chapter VI, Section 18 is a non-substantive rule change.

The Exchange is amending the Market Order Spread Protection to provide more specificity to that rule. Today, the Market Order Spread Protection does not apply during the Opening Process and during halts. The Exchange is proposing to memorialize this exception into the rule to provide more transparency as to the operation of this protection. Both the Opening Process and trading halts have the same or more restrictive boundaries as for the Market Order Spread Protection. With respect to the Opening Process, a Valid Width

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).



National Best Bid or Offer is required. A Valid Width National Best Bid or Offer” or “Valid Width NBBO” shall mean the combination of all away market quotes and any combination of BX Options-registered Market Maker orders and quotes received over the SQF Protocols within a specified bid/ask differential as established and published by the Exchange.<sup>8</sup> The Exchange’s requirements during the Opening Process are as restrictive or more restrictive as the setting for the Market Order Spread Protection. As provided in Chapter V, Section 4 trading halts are subject to the reopening process as provided for in Chapter VI, Section 8. The same protections noted for the Opening Process above will apply for trading halts. The Exchange believes that the Market Order Spread Protection is unnecessary during the Opening Process and during a trading halt because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

The Exchange is also proposing to make clear that the Acceptable Trade Range protection is an order and quote protection. This particular rule does not specifically state orders and quotes in each place either is mentioned with the rule. The Exchange believes adding order/quote in each instance it appears will bring greater transparency to the rule and protect investors and the public interest by providing greater clarity to the rule.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not impose an intra-market burden on competition with respect to the reorganization and relocation of the various rules into Rule Chapter VI, Section 18 because the various price protections will continue to apply uniformly to all market participants.

The Exchange does not believe that not applying the Market Order Spread Protection during the Opening Process and during a trading halt creates an undue burden on competition because these mechanisms have the same or more restrictive protections as the Market Order Spread Protection.

<sup>8</sup> Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker orders or quotes on BX Options are crossed internally, then all such orders and quotes will be excluded from the Valid Width NBBO calculation. See BX Chapter VI, Section 8(a)(6).

Finally, the amendments to the Acceptable Trade Range rule creates an undue burden on competition because the additional language brings more transparency to the existing rule.

#### *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<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>11</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>12</sup> however, 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 proposal may become operative upon filing. The Exchange states that it believes it is important for it to be able to manage the administration of its rules on an immediately effective basis. Further, with respect to the amendment to the Market Order Spread Protection and Acceptable Trade Range, the Exchange believes that the amendment protects investors and the public interest by providing more transparency as to the operation of this protection during the Opening Process and during halts for the Market Order Spread Protection and also clarifies the Acceptable Trade Range rule. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2018-019 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-BX-2018-019. 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,

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2018-019 and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-10605 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33098; 812-14815]

### PFM Multi-Manager Series Trust and PFM Asset Management LLC

May 15, 2018.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6-07(2)(a), (b), and (c) of Regulation S-X (“Disclosure Requirements”). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

**APPLICANTS:** PFM Multi-Manager Series Trust (the “Trust”), a Delaware statutory trust registered under the Act as an open-end management investment company, and PFM Asset Management LLC (the “Initial Adviser”), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940

(collectively with the Trust, the “Applicants”).

**FILING DATES:** The application was filed on August 22, 2017 and amended on March 1, 2018, and May 9, 2018.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application 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 June 11, 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: One Keystone Plaza, Suite 300, North Front and Market Streets, Harrisburg, PA 17101-2044.

**FOR FURTHER INFORMATION CONTACT:** Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s website by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the Trust (the “Investment Management Agreement”).<sup>1</sup> The Adviser will provide

<sup>1</sup> Applicants request relief with respect to the named Applicants, as well as to any future series of the Trust and any other registered open-end management investment company or series thereof that: (a) Is advised by the Initial Adviser, its successors, or any entity controlling, controlled by or under common control with the Initial Adviser or its successors (each, an “Adviser”); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions set forth in the application (each, a “Subadvised Series”). For purposes of the requested order, “successor” is limited to an entity that

the Subadvised Series with continuous investment management services, subject to the supervision of, and policies established by, the board of trustees of the Trust (“Board”). The Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a “Sub-Adviser” and collectively, the “Sub-Advisers”) the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Adviser.<sup>2</sup> The primary responsibility for managing each Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f-2 under the Act.<sup>3</sup> Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series’ net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, “Aggregate Fee Disclosure”).

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions

results from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> A “Sub-Adviser” for a Subadvised Series is (1) an indirect or direct “wholly-owned subsidiary” (as such term is defined in the Act) of the Adviser for that Subadvised Series, or (2) a sister company of the Adviser for that Subadvised Series that is an indirect or direct “wholly-owned subsidiary” of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a “Wholly-Owned Sub-Adviser” and collectively, the “Wholly-Owned Sub-Advisers”), or (3) not an “affiliated person” (as such term is defined in section 2(a)(3) of the Act) of the Subadvised Series or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Subadvised Series (“Non-Affiliated Sub-Advisers”).

<sup>3</sup> The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in Section 2(a)(3) of the Act, of the Subadvised Series, the Trust or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (“Affiliated Sub-Adviser”).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Series shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series.

Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-10639 Filed 5-17-18; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83227; File No. SR-FINRA-2018-019]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating To Create a Fee and Honorarium for Late Cancellation of a Prehearing Conference

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 4, 2018, Financial Industry Regulatory

Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rules 12500 and 12501 of the Code of Arbitration Procedure for Customer Disputes ("Customer Code") and FINRA Rules 13500 and 13501 of the Code of Arbitration Procedure for Industry Disputes ("Industry Code" and together, "Codes"), to charge a \$100 per-arbitrator fee to parties who request cancellation of a prehearing conference within three business days before a scheduled prehearing conference. The proposed rule change would also amend FINRA Rules 12214(a) and 13214(a) of the Codes to create a \$100 honorarium to pay each arbitrator scheduled to attend a prehearing conference that was cancelled within three business days of the prehearing conference.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

###### Introduction

FINRA proposes to charge parties to an arbitration a \$100 per-arbitrator fee if a prehearing conference is cancelled<sup>3</sup> at the request of one or more parties that was submitted within three business

days before a scheduled prehearing conference ("late cancellation fee"). FINRA is also proposing to pay a \$100 honorarium to each arbitrator who was scheduled to attend the prehearing conference that was cancelled within three business days of the prehearing conference.

#### Background

The Codes have several rules that address postponements and cancellations of hearings.<sup>4</sup> FINRA Rules 12601(b)(1) and 13601(b)(1) provide that for each postponement agreed to by the parties, or granted upon request of one or more parties, FINRA assesses a postponement fee to the parties, equal to the applicable hearing session fee.<sup>5</sup> In addition, under FINRA Rules 12601(b)(2) and 13601(b)(2), a party or parties that make postponement requests within 10 days before a scheduled hearing session are required to pay a \$600 per-arbitrator late cancellation fee.<sup>6</sup> Finally, if a hearing is cancelled or postponed due to settlement or withdrawal of a claim, FINRA Rules 12902(d) and 13902(d) provide that if FINRA receives a settlement or withdrawal notice 10 days or fewer prior to the date that the hearing is scheduled to begin, parties that paid a filing fee will not be entitled to any refund of the filing fee.<sup>7</sup>

FINRA believes that it is appropriate to address late cancellations of prehearing conferences by charging a late cancellation fee to the parties. In addition, FINRA proposes to pay an honorarium in the same amount to those

<sup>4</sup> A hearing is a meeting between the arbitrators and parties to determine the merits of the arbitration. See FINRA Rules 12100(o) and 13100(o).

<sup>5</sup> These rules also permit the panel to allocate the fee among the party or parties that agreed to or requested the postponement, to assess part or all of any postponement fees against a party that did not request the postponement if the panel determines that the non-requesting party caused or contributed to the need for the postponement, and to waive the fees. This fee is paid to FINRA and not passed through to the arbitrators.

<sup>6</sup> These rules also permit the panel to allocate the \$600 per-arbitrator fee among the requesting parties if more than one party requests postponement, to allocate all or a portion of the \$600 per-arbitrator fee to the non-requesting party or parties if the arbitrators determine that the non-requesting party or parties caused or contributed to the need for the postponement, and to use its discretion to waive the fee in the event of an extraordinary circumstance, provided verification of such circumstance is received. See FINRA Rules 12601(b)(2) and 13601(b)(2).

<sup>7</sup> Customers, associated persons, and other non-members who file a claim, counterclaim, cross claim or third party claim must pay a filing fee to initiate an arbitration, unless the fee is deferred. See FINRA Rule 12900(a)(1); see also FINRA Rule 13900(a)(1) (addressing filing fees for associated persons).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> References to cancellations of prehearing conferences include postponements of such conferences.

arbitrators who were scheduled to attend the prehearing conference.

Prehearing conferences are typically scheduled before the hearing on the merits begins.<sup>8</sup> During these conferences, the arbitrator or panel meets with the parties, either in person or by telephone, to set discovery, briefing, and motions deadlines, to schedule subsequent hearing sessions, and to address other preliminary matters.<sup>9</sup> A prehearing conference may also address other outstanding matters, such as discovery disputes or substantive motions (e.g., motions to dismiss or motions to amend).<sup>10</sup>

Prehearing conferences currently can be cancelled by the parties up to and including on the same day without penalty, unlike late postponement of arbitration hearings.<sup>11</sup> Considerable preparation by FINRA staff is required prior to prehearing conferences. Late cancellations of prehearing conferences that occur within three or fewer business days of a scheduled prehearing conference typically cause the most problems for arbitrators. In FINRA's experience, these late cancellations often result in scheduling inconvenience for arbitrators, uncompensated work by arbitrators,<sup>12</sup> and an operational challenge for FINRA staff who must quickly notify other parties and the arbitrator or panel about the cancellation.

### Proposed Rule Change

#### *Late Cancellation Fee for Prehearing Conferences*

FINRA is proposing to amend FINRA Rules 12500 and 12501 of the Customer Code and FINRA Rules 13500 and 13501 of the Industry Code,<sup>13</sup> which govern prehearing conferences, to provide that if a cancellation request is agreed to by the parties or requested by one or more parties within three business days before a scheduled prehearing conference and granted, the

party or parties shall be charged a fee of \$100 per arbitrator scheduled to attend the prehearing conference. If more than one party requests the cancellation, the arbitrator(s) may allocate the \$100 per-arbitrator fee between or among the requesting parties. If one party requests the cancellation, the arbitrator(s) shall allocate the fee to that party; provided, however, the arbitrator(s) may allocate all or a portion of the \$100 per-arbitrator fee to the non-requesting party or parties if the arbitrator(s) determine that the non-requesting party or parties caused or contributed to the need for the cancellation. In the event that an extraordinary circumstance prevents a party or parties from making a timely cancellation request, the arbitrator(s) may use their discretion to waive the fee, provided a written explanation of such circumstance is received.

Under the proposed rule change, if a party requests or the parties agree to cancel a prehearing conference within three business days of a scheduled prehearing conference, the \$100 per-arbitrator fee would be charged as a fee assessment at the time the case is closed. The date of the party's or parties' cancellation request controls whether the fee is assessed, not the date of the arbitrators' decision on such a request, if a decision is required.<sup>14</sup> For example, if a party requests cancellation of the prehearing conference five business days before the scheduled prehearing conference, but the arbitrators rule on the request two business days before the scheduled conference would be held, the party would not be assessed a late cancellation fee under the proposed rule. If the arbitrators cancel a prehearing conference on their own, the parties would not be charged.

In the event of a cancellation, a party or the parties would be charged only for those arbitrators who were scheduled to attend the prehearing conference. For example, after the parties complete the arbitrator selection process and a panel is appointed,<sup>15</sup> the Director of the Office of Dispute Resolution<sup>16</sup> ("Director") will schedule an Initial Prehearing Conference ("IPHC"),<sup>17</sup> during which

the parties and arbitrators meet initially, usually by telephone. If the amount of the claim is more than \$100,000, the panel must consist of three arbitrators,<sup>18</sup> all of whom would participate in the IPHC. The Director will typically appoint the chairperson of the panel to preside over prehearing conferences to resolve discovery issues.<sup>19</sup>

If more than one party cancels a prehearing conference under the proposed rule, the arbitrators would have the authority to allocate the fee in the award. The most common allocation would be between or among the parties making the request. However, depending on the facts and circumstances of the request, the arbitrators could assess the fee to one party or to a non-requesting party or parties if the arbitrators determine that these parties caused or contributed to the need for the cancellation. This authority is granted to the arbitrators under the Codes<sup>20</sup> and is consistent with other fee provisions in the Codes.<sup>21</sup>

If an extraordinary circumstance prevents a party from making a timely cancellation request, the arbitrators have the discretion to waive the late cancellation fee, provided they receive a written explanation of the circumstance. FINRA would notify parties and arbitrators that the prehearing conference was cancelled and remind parties to provide an explanation, if applicable, before the close of the arbitration case. If the fee is waived, the party's or parties' obligation to pay the fee would be eliminated. FINRA, however, would pay the \$100 per-arbitrator honorarium to the arbitrator(s) scheduled to attend the prehearing conference.

The following example illustrates how the rule would work. A claimant files a claim for \$150,000 against a firm. The parties select their arbitrators, the panel is appointed, the Director schedules an IPHC for Wednesday, August 15, 2018, and the three arbitrators are scheduled to attend. The parties meet independently and finish addressing the preliminary matters a week before the IPHC is scheduled. If the parties notify the Director of their agreement to cancel the IPHC<sup>22</sup> on Thursday, August 9, 2018, they would

<sup>8</sup> See FINRA Rules 12100(w) and 13100(w).

<sup>9</sup> See FINRA Rules 12500(c) and 13500(c).

<sup>10</sup> See FINRA Rules 12501(b) and 13501(b).

<sup>11</sup> See generally FINRA Rules 12601(b) and 13601(b).

<sup>12</sup> In the past, arbitrators have resigned from the roster because FINRA's dispute resolution forum does not provide a payment to arbitrators for cancellations of prehearing conferences. FINRA notes that one reason former arbitrators have given for their resignation is the lack of compensation for prehearing conferences that are cancelled on short notice. FINRA has identified 17 separate complaints relating to 22 arbitrators with respect to the late cancellations of prehearing conferences.

<sup>13</sup> To simplify this explanation, FINRA's discussion of the proposed changes focuses on changes to the Customer Code. However, the proposed changes also apply to the Industry Code.

<sup>14</sup> A decision would be required if only one party requests that the prehearing conference be cancelled.

<sup>15</sup> See generally Part IV (Appointment, Disqualification, and Authority of Arbitrators) of the FINRA Rule 12000 Series and the FINRA Rule 13000 Series.

<sup>16</sup> The term "Director" means the Director of the Office of Dispute Resolution and includes FINRA staff to whom the Director has delegated authority, unless the Code provides that the Director may not delegate a specific function. See FINRA Rule 12100(m); see also FINRA Rule 13100(m).

<sup>17</sup> See FINRA Rule 12500; see also FINRA Rule 13500.

<sup>18</sup> See FINRA Rule 12401; see also FINRA Rule 13401.

<sup>19</sup> See FINRA Rule 12501(a); see also FINRA Rule 13501(a).

<sup>20</sup> See, e.g., FINRA Rules 12904(e)(8) and 13904(e)(8).

<sup>21</sup> See generally FINRA Rules 12601(b) and 13601(b).

<sup>22</sup> Parties may agree to forego the IPHC provided certain conditions are met. See FINRA Rule 12500(c); see also FINRA Rule 13500(c).

not be charged because they provided notice four business days before the scheduled prehearing conference.<sup>23</sup> If the parties notify the Director of the cancellation on Friday, August 10, 2018, they would be assessed a \$100 per-arbitrator fee (or \$300), because they would have provided the cancellation notice within three business days before the scheduled prehearing conference. In the example, if one party requested cancellation of the IPHC by August 10 but an extraordinary circumstance (e.g., a serious car accident) prevented timely notice, the party could provide a written explanation before the case closes for the arbitrators to consider waiving the fee. If the arbitrators waive the fee, FINRA would still pay the \$100 per-arbitrator honorarium to those arbitrators scheduled to attend the conference.

Finally, FINRA recognizes that customers could experience an increase in costs under the proposed rule change if they are assessed a part of or the entire late cancellation fee. FINRA notes that there are some mitigation strategies that parties could employ to avoid incurring these fees. As the objective of the proposed rule change is to encourage parties to address preliminary matters further in advance of a prehearing conference; if they do so, then they could provide notice of cancellation more than three business days prior to the scheduled prehearing conference to avoid the fee entirely. Further, if the parties agree to cancel a scheduled prehearing conference three business days or fewer before the scheduled conference, they can negotiate responsibility for the fee. In addition, the rules permit the arbitrator or panel to allocate the fee to the non-requesting party or parties if the arbitrator(s) determine that the non-requesting party or parties caused or contributed to the need for the cancellation.

#### *Arbitrator Honorarium for Late Cancellation of Prehearing Conferences*

The proposed rule change would pay arbitrators who were scheduled to attend the prehearing conference that was cancelled an honorarium for late cancellations of prehearing conferences by amending FINRA Rule 12214(a)<sup>24</sup> to provide that FINRA would pay an

honorarium of \$100 to each arbitrator scheduled to attend a prehearing conference that was cancelled within three business days of the prehearing conference by agreement of the parties or was requested by one or more parties within three business days of the prehearing conference and granted.

If the arbitrators waive the fee, the obligation to pay the fee would be eliminated, but FINRA would still pay the \$100 per-arbitrator honorarium to the arbitrator(s) scheduled to attend the prehearing conference.

#### *Nonsubstantive Changes*

In addition to amending FINRA Rules 12500 and 12501<sup>25</sup> to establish a per-arbitrator fee for late cancellations of prehearing conferences and FINRA Rule 12214(a)<sup>26</sup> to create a corresponding honorarium, the proposed rule change would also make a few nonsubstantive changes to these rules.

As noted in Item 2 of this filing, if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 30 days following publication of the *Regulatory Notice* announcing Commission approval.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>27</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,<sup>28</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that the proposed rule change would allocate equitably the proposed late cancellation fee among those parties that cancel such conferences on short notice. The proposed fee would be paid by the parties, and passed through to the arbitrators to provide them with some compensation for the preparation time expended and for their inconvenience

when a prehearing conference is cancelled on short notice. While arbitrators would typically allocate the fee to the requesting party or parties, FINRA rules permit the arbitrators to allocate all, or a portion of the fee, to the non-requesting party or parties if the arbitrators determine that the non-requesting party caused or contributed to the late cancellation. Moreover, the fee can be avoided altogether if the parties provide three business days' notice of such a cancellation. For these reasons, FINRA believes that the proposed fee is an equitable allocation of a reasonable fee to use the forum.

Moreover, FINRA believes that the proposed rule change would protect investors and the public interest by improving FINRA's ability to retain qualified arbitrators willing to devote the time and effort necessary to consider thoroughly all prehearing issues presented, which is an essential element for FINRA to operate an effective arbitration forum for the purposes of investor protection and market integrity.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA 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. A discussion of the economic impacts of the proposed amendments follows.

##### (a) Need for the Rule

Unlike hearing sessions, parties can currently cancel prehearing conferences up to and including the same day of the conference without penalty.<sup>29</sup> Late cancellations of prehearing conferences are costly to arbitrators and can negatively impact their incentive to participate in the forum. They also pose an operational challenge for FINRA staff. The proposal would create incentives for parties to address preliminary matters further in advance of a prehearing conference by charging a late cancellation fee. The proposal would also compensate arbitrators for their costs in the event of a late cancellation.

##### (b) Economic Baseline

The economic baseline for the proposal is the current rules under the Codes that address the postponements and cancellations of hearings. The proposal is expected to affect the parties to an arbitration including customers, member firms, and associated persons.

<sup>23</sup> If August 9, 2018 were a FINRA holiday, the deadline would be extended until the next business day. See FINRA Rule 12100(l); see also FINRA Rule 13100(l). In this scenario, therefore, if the latest date to avoid a fee falls on a holiday, parties would not be assessed the late cancellation fee if they notify FINRA on the next business day following the holiday.

<sup>24</sup> FINRA Rule 13214(a) would also be amended. See *supra* note 13.

<sup>25</sup> See also FINRA Rules 13500 and 13501.

<sup>26</sup> See also FINRA Rule 13214(a).

<sup>27</sup> 15 U.S.C. 78o-3(b)(6).

<sup>28</sup> 15 U.S.C. 78o-3(b)(5).

<sup>29</sup> Unless otherwise noted, consistent with the rest of the document, references to cancellations include postponements.

The proposal is also expected to affect FINRA arbitrators.

Arbitrators often spend considerable time and effort preparing for prehearing conferences. Currently, parties that cancel a prehearing conference do not incur a penalty, and arbitrators do not receive compensation for their time and effort spent preparing if a prehearing conference is cancelled (and not postponed until a later date). Late cancellations of prehearing conferences can also result in scheduling inconveniences. These factors can reduce the incentives of arbitrators to participate in the forum and the ability of FINRA to retain experienced arbitrators on the roster.<sup>30</sup> The loss of experienced arbitrators reduces the efficacy of the forum and the protections it affords to investors and other industry participants from wrongdoing.

FINRA has collected information detailing the frequency of late cancellations of prehearing conferences, from January 2018 to March 2018. FINRA is able to identify 182 instances of late cancellations of prehearing conferences, or approximately ten percent of the 1,904 scheduled prehearing conferences. Among these late cancellations, there were 474 arbitrators that could have been affected. This sample, from one calendar quarter, suggests that late cancellations of prehearing conferences could affect approximately one-quarter of arbitrators annually.<sup>31</sup>

#### (c) Economic Impact

The proposal would charge parties a fee if a prehearing conference is cancelled within three business days. A benefit of the proposal is an increase in the incentives of arbitrators to participate in the forum. Arbitrators would receive at least nominal compensation for their time and effort preparing for a prehearing conference, and in particular when the cancellation is closer to the conference date and arbitrators have likely spent more time and effort to prepare. Arbitrators would also be less likely to experience scheduling inconveniences if the fee deters late cancellations of prehearing conferences. The removal of a disincentive for arbitrators to participate in the forum would reduce the likelihood that they resign from the forum. Retaining more experienced arbitrators could improve the efficacy of the forum and increase the protections it affords.

Parties would incur a \$100 fee for each arbitrator scheduled to attend a prehearing conference in the event of a late cancellation.<sup>32</sup> The late cancellation fee would increase the forum costs of parties that cancel a prehearing conference or that are responsible for the cancellation. FINRA does not expect, however, that the late cancellation fee would reduce the incentives of parties to file claims. The fee should encourage parties to be more effective in managing their schedules and calendars to avoid late cancellations and to provide appropriate notice when seeking to cancel prehearing conferences. Arbitrators also have discretion to waive the late cancellation fee in the event of an extraordinary circumstance provided that the parties give a written explanation.

Parties would be able to cancel a prehearing without penalty if the cancellation is more than three business days in advance. In the event that a prehearing conference is cancelled more than three business days in advance, arbitrators would not receive compensation for any time and effort in their preparation. FINRA believes, however, that arbitrators are likely to put in more time and effort to prepare for a prehearing conference closer to the scheduled date. Earlier cancellations, therefore, are less likely to result in costs to the arbitrators and, therefore, would lessen the negative impact on the incentives to participate in the forum.

#### (d) Alternatives Considered

Alternatives to the proposed amendments include applying the same parameters as scheduled hearing sessions to prehearing conferences: The number of days (10) prior to a scheduled hearing session for parties to cancel without incurring a late cancellation fee and the fee amount (\$600 per arbitrator) if parties cancel late. FINRA believes that arbitrators' costs for a late cancellation are less for a prehearing conference, which is often by phone, than for a scheduled hearing session, which is typically in person. Accordingly, FINRA believes that less advance notice and a lower fee are appropriate for cancellation of a prehearing conference. FINRA believes that the proposed amendments would incentivize parties to avoid late cancellations, while at the same time compensating arbitrators in the event of a late cancellation that is commensurate with their costs.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2018-019 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-FINRA-2018-019. 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

<sup>30</sup> See *supra* note 12.

<sup>31</sup> There were a total of 7,364 registered FINRA arbitrators as of January 2018.

<sup>32</sup> FINRA believes that the amount of the honorarium is reasonable given its understanding of the time and effort arbitrators expend when preparing for prehearing conferences.

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2018-019 and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-10603 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83226; File No. SR-CBOE-2018-035]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Silexx Trading Platform Fees Schedule

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 1, 2018, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Silexx trading platform ("Silexx" or the platform") Fees Schedule.

The text of the proposed rule change is also available on the Exchange's

website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the 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 aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of this filing is to include language within the Silexx Fees Schedule to: (1) Clarify that the purchase of Login IDs is subject to proration; and (2) introduce a two-month free upgrade for users on Silexx Basic to Silexx Pro. Today, the Exchange does not prorate the pricing for Login IDs or offer free upgrades on Silexx.

By way of background, Silexx is an order entry and management trading platform for listed stocks and options that support both simple and complex orders.<sup>3</sup> The platform is a software application that is installed locally on a user's desktop. It provides users with the capability to send option orders to U.S. options exchanges and stock orders to U.S. stock exchanges (and other trading centers), and allows users to input parameters to control the size, timing, and other variables of their trades. Silexx includes access to real-time options and stock market data, as well as access to certain historical data. The platform also provides users with the ability to maintain an electronic audit trail and provide detailed trade reporting. In addition, Silexx offers other functionality such as access to crossing orders tickets, equity order reports, and market data feeds (for

specific fees). Use of Silexx is completely optional.

###### Login IDs

Login IDs may be purchased for different versions of the platform, including Basic, Pro, Sell-Side, Pro Plus Risk, and Buy-Side Manager. The Exchange previously filed to establish set monthly fees for each version of the platform.<sup>4</sup> The Exchange now proposes to clarify that fees related to the purchase of Login IDs are prorated. Specifically, if a user signs up for a Login ID on any version of the platform after the first calendar day of the month, the fee for that calendar month is prorated based on the remaining calendar days in that calendar month. This proration does not apply if a user cancels a Login ID prior to the end of the calendar month.

###### Two-Month Free Upgrade

Silexx Basic is an order-entry and management system that provides basic functionality including real-time data, alerts, trade reports, views of exchange books, management of the customer's orders and positions, simple and complex order tickets, and basic risk features. Users are currently charged \$200 per month per Login ID for Silexx Basic. Silexx Pro offers the same functionality as the basic platform plus additional features including an algorithmic order ticket, position analysis, charting, earnings and dividend information, delta hedging tools, volatility skews, and additional risk features. Users are currently charged \$400 per month per Login ID for Silexx Pro.

The Exchange proposes to introduce a two-month free-upgrade period for users that are currently on Silexx Basic. This upgrade would allow users of Silexx Basic to use the functionality of Silexx Pro for a period of two months (May 1, 2018 through June 30, 2018) at the current Silexx Basic rate of \$200 per month per Login ID. After the two-month period ends, beginning July 1, 2018, those users will be charged at the Silexx Pro rate of \$400 per month until they choose to downgrade. The Exchange notes that the upgrade to Silexx Pro is optional.

These proposed changes to the Silexx Fees Schedule are to take effect on May 1, 2018.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the

<sup>3</sup> The platform also permits users to submit orders for commodity futures, commodity options and other non-security products to be sent to designated contract markets, futures commission merchants, introducing brokers or other applicable destinations of the users' choice.

<sup>4</sup> See Securities Exchange Act Release No. 82088 (November 15, 2017), 82 FR 55443 (November 21, 2017) (SR-CBOE-2017-068)

<sup>33</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>5</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

First, the Exchange believes the proposed change related to Login IDs provides for the equitable allocation of reasonable fees because the prorated Login ID fees will apply to all users of each version of the platform. Additionally, the Exchange believes the proposed change will provide for a more precise assessment of platform fees based on when a user signs up for a Login ID. Second, the Exchange believes the proposed change related to the free upgrade to Silexx Pro is reasonable, equitable, and not unfairly discriminatory because the free upgrade will apply to all current users of Silexx Basic who wish to upgrade. Additionally, the free upgrade period will be limited to two months beginning on May 1, 2018 and ending on June 30, 2018. Finally, the Exchange notes that use of the platform, including the upgrade, is discretionary and not compulsory, and users may downgrade or cancel their Login IDs with Silexx at any time.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

Cboe Options 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 Exchange believes that the proposed rule change will not impose any burden

on intramarket competition because the proposed rule changes apply to all users of Silexx. The Exchange notes that each version of Silexx is available to all market participants, and users have discretion to determine which version of the platform they register for based on functionality.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies only to Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received 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<sup>8</sup> and paragraph (f) of Rule 19b-4<sup>9</sup> 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2018-035 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-2018-035. 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-2018-035, and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-10602 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f).

<sup>10</sup> 17 CFR 200.30-3(a)(12).



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83224; File No. SR-BX-2018-018]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7018(a) To Establish a New Fee for Orders With Midpoint Pegging That Execute at a Price Better Than the Midpoint of the NBBO

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 30, 2018, Nasdaq BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish a new fee for orders with Midpoint pegging that receive an execution price that is better than the midpoint of the National Best Bid and Offer (“NBBO”), as described further below.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on May 1, 2018.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqbx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to amend the Exchange’s transaction fees at Rule 7018 to establish a new fee of \$0.0017 per share executed for a buy (sell) order with Midpoint pegging that receives an execution price that is lower (higher) than the midpoint of the NBBO.

The Exchange operates on the “taker-maker” model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Among the fees that the Exchange charges to members that submit liquidity-providing orders to the Exchange, the Exchange charges a baseline fee of \$0.0030 per share executed for each non-displayed order that adds liquidity. However, for certain types of non-displayed orders that add liquidity, the Exchange charges lower fees relative to the baseline fee as a means of incentivizing additional liquidity. For example, the Exchange charges \$0.0015 per share executed for orders with Midpoint pegging<sup>3</sup> or \$0.0005 if the order with Midpoint pegging is entered by a member that adds 0.02% of total Consolidated Volume of non-displayed liquidity.

The new fee that the Exchange proposes to charge for a Midpoint pegging order that executes at a price which is less aggressive than the midpoint of the NBBO will be higher than the \$0.0005 or \$0.0015 fees that the Exchange charges for Midpoint pegging orders, generally. This is reasonable because Midpoint pegging orders that execute at prices less aggressive than the Midpoint of the NBBO provide less price improvement to other participants and execute at better prices (from the perspective of the firm having entered the order with Midpoint pegging) than Midpoint pegging orders that execute at the midpoint. However, the Exchange notes that the proposed fee will still be lower than the baseline \$0.0030 fee that the Exchange charges for non-display orders as a means of incenting orders that provide price improvement relative to the Midpoint.

The Exchange also proposes to add language to existing provisions of the fee schedule that also apply to orders with Midpoint pegging to clarify that these other provisions and their

associated fees do not apply to orders with Midpoint pegging that receive price improvement relative to the midpoint of the NBBO.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>6</sup>

Likewise, in *NetCoalition v. Securities and Exchange Commission*<sup>7</sup> (“NetCoalition”) the DC Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.<sup>8</sup> As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”<sup>9</sup>

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>6</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>7</sup> *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

<sup>8</sup> See *NetCoalition*, at 534–535.

<sup>9</sup> *Id.* at 537.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Pursuant to Rule 4703(d), an order with a “Midpoint pegging” attribute is a non-displayed order whose price is determined with reference to midpoint between the Inside Bid and Inside Offer (the “Midpoint”).

the execution of order flow from broker dealers'. . . .'<sup>10</sup> Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that its proposed fee is reasonable because it benefits participants by providing a new way in which members may qualify for a reduced transaction fee, while also incentivizing members to add liquidity to the Exchange. It is also reasonable for the Exchange to charge a higher fee for a Midpoint pegging order that receives price improvement relative to the midpoint of the NBBO than it does for a Midpoint pegging order that executes at the Midpoint because the former order receives a better price than the latter one relative to the midpoint of the NBBO.

The Exchange believes that the proposed fee is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fee to all similarly situated members.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed fee does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both

from other exchanges and from off-exchange venues. The proposed fee will apply to all similarly situated members.

Moreover, the proposal promotes competition because the Exchange intends for it to incentivize members to add liquidity to the Exchange, potentially attracting additional participants to the Exchange.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>11</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2018-018 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2018-018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2018-018 and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-10600 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-83230; File No. SR-NYSE-2018-21]**

### **Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Price List**

May 14, 2018.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>10</sup> *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on April 30, 2018, New York Stock Exchange LLC (“NYSE” or the “Exchange”) 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 its Price List to (1) amend the cap applicable to certain transactions at the open; (2) offer an optional monthly per security credit to Designated Market Makers (“DMM”) that elect to receive a lower rebate per share credit; (3) amend the NYSE Crossing Session II (“NYSE CSII”) fee cap; (4) offer a rebate for UTP executions in orders designated as “retail” that add liquidity to the Exchange; and (5) modify the quoting requirements for the Supplemental Liquidity Provider (“SLP”) tiered rates for displayed and non-displayed orders in UTP securities. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend its Price List to (1) amend the cap applicable to certain transactions at the open; (2) offer an optional monthly per security credit to DMMs that elect to

receive a lower rebate per share credit; (3) amend the NYSE CSII fee cap; (4) offer a rebate for UTP executions in orders designated as “retail” that add liquidity to the Exchange; and (5) modify the quoting requirements for the SLP tiered rates for displayed and non-displayed orders in UTP securities.

The Exchange proposes to implement these changes to its Price List effective May 1, 2018.

##### Executions at the Open

For securities priced \$1.00 or more, the Exchange currently charges fees of \$0.0010 per share for executions at open, and \$0.0003 per share for Floor broker executions at the open, subject to \$30,000 cap per month per member organization, provided the member organization executes an ADV that adds liquidity to the Exchange during the billing month (“Adding ADV”),<sup>4</sup> excluding liquidity added by a DMM, of at least five million shares. The Exchange proposes an alternative, lower \$20,000 monthly fee cap for member organizations that execute an ADV that takes liquidity from the NYSE during the billing month (“Taking ADV”), excluding liquidity taken by a DMM, of at least 1.30% of NYSE CADV and an ADV of orders for execution at the open (“Open ADV”) of at least 8 million shares. The \$0.0010 per share fee for executions at the open and \$0.0003 per share for Floor broker executions at the open would not be changed. DMMs currently are not charged for executions at the opening and would continue to not be charged.<sup>5</sup>

##### DMM Optional Monthly Rebate Per Security Credit

The Exchange proposes an optional monthly rebate per security (“Rebate Per Security”) to DMMs with 100 or more assigned securities, up to a maximum credit of \$100,000 per month across all DMM assigned securities, that elect to receive a lower monthly rebate per share credit (“Optional Credit”) for all assigned securities. DMMs electing the Rebate per Security and corresponding Optional Credit for all assigned securities would be required to notify the Exchange prior to the start of a calendar quarter to be effective for that and subsequent quarters. Similarly, DMMs electing to suspend the Rebate

per Security and corresponding Optional Credit for that suspension to be effective for that and subsequent quarters would be required to notify the Exchange prior to the start of that calendar quarter.

As proposed, the Rebate Per Security would be available for the following calendar quarter for assigned securities that meet the following quoting requirements:

First, in More Active Securities,<sup>6</sup> if the DMM that elects the Optional Credit meets the More Active Securities Quoting Requirement in an assigned security,<sup>7</sup> that DMM’s assigned security would be eligible for a:

- \$100.00 Rebate per Security if the DMM quotes at the NBBO in the applicable security 30% of the time or more in the applicable month;
- \$75.00 Rebate Per Security if the DMM quotes at least 20% and up to 30% of the time in the applicable month; and
- \$50.00 if the DMM quotes at least 10% and up to 20% of the time in the applicable month.

Second, in Less Active Securities,<sup>8</sup> if the DMM that elects the Optional Credit meets the Less Active Securities Quoting Requirement in an assigned security,<sup>9</sup> that DMM’s assigned security would be eligible for a

- \$200.00 Rebate per Security if the DMM quotes at the NBBO in the applicable security 60% of the time or more in the applicable month;
- \$125.00 if the DMM quotes at least 40% and up to 60% of the time in the applicable month; and

<sup>6</sup> “More Active Securities” are securities with an average daily consolidated volume (“Security CADV”) in the previous month equal to or greater than 1,000,000 shares per month.

<sup>7</sup> The “More Active Securities Quoting Requirement” is met if the More Active Security has a stock price of \$1.00 or more and the DMM quotes at the National Best Bid or Offer (“NBBO”) in the applicable security at least 10% of the time in the applicable month. Both “More Active Securities” and the “More Active Securities Quoting Requirement” are defined in the current Price List. The Exchange is not proposing any changes to these definitions and proposes to relocate them to the new proposed text describing the optional rebate.

<sup>8</sup> “Less Active Securities” are securities with Security CADV of less than 1,000,000 shares per month in the previous month.

<sup>9</sup> The “Less Active Securities Quoting Requirement” is met if the Less Active Security has a stock price of \$1.00 or more and the DMM quotes at the NBBO in the applicable security at least 15% of the time in the applicable month. Both “Less Active Securities” and the “Less Active Securities Quoting Requirement” are defined in the current Price List. As with the definitions of More Active Securities and the More Active Securities Quoting Requirement, the Exchange is not proposing any changes to these definitions and proposes to relocate them to the new proposed text describing the optional rebate.

<sup>4</sup> Footnote 2 to the Price List defines ADV as “average daily volume” and “Adding ADV” as ADV that adds liquidity to the Exchange during the billing month. The Exchange is not proposing to change these definitions.

<sup>5</sup> The existing pricing for executions at the opening in securities priced below \$1.00 would also remain unchanged (*i.e.*, 0.3% of the total dollar value of the transaction).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

- \$100.00 if the DMM quotes at least 15% and up to 40% of the time in the applicable month.

The Exchange proposes to amend the current DMM rebates to reflect the proposed corresponding lower Optional Credits for DMMs that elect for the Rebate per Security, as follows.

#### More Active Securities

Currently, DMMs earn a rebate of \$0.0027 per share when adding liquidity with orders, other than Mid-Point Liquidity Orders (“MPL Order”), in More Active Securities if the More Active Security has a stock price of \$1.00 or more and the DMM meets the More Active Securities Quoting Requirement and has a DMM Quoted Size for an applicable month that is at least 5% of the NYSE Quoted Size,<sup>10</sup> unless the more favorable rates set forth below in the Price List apply. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0026 per share if the quoting requirements are met.

Currently, DMMs earn a rebate of \$0.0031 per share when adding liquidity with orders, other than MPL Orders, in More Active Securities if the More Active Security has a stock price of \$1.00 or more and the DMM meets (1) the More Active Securities Quoting Requirement, (2) has a DMM Quoted Size for an applicable month that is at least 10% of the NYSE Quoted Size, and (3) the DMM quotes at the NBBO in the applicable security at least 20% of the time in the applicable month and for providing liquidity that is more than 5% of the NYSE’s total intraday adding liquidity in each such security for that month. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0030 per share if the quoting and providing requirements are met.

Similarly, DMMs currently earn a rebate of \$0.0034 per share when adding liquidity with orders, other than MPL Orders, in More Active Securities if the More Active Security has a stock price of \$1.00 or more and the DMM meets (1) the More Active Securities Quoting Requirement, (2) has a DMM Quoted Size for an applicable month that is at least 15% of the NYSE Quoted Size, for

providing liquidity that is more than 15% of the NYSE’s total intraday adding liquidity in each such security for that month, and (3) the DMMs quotes at the NBBO in the applicable security at least 30% of the time in the applicable month. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0033 per share if the quoting and providing requirements are met.

DMMs currently earn a \$0.0035 per share when adding liquidity with orders, other than MPL Orders, in More Active Securities if the More Active Security has a stock price of \$1.00 or more and the DMM meets (1) the More Active Securities Quoting Requirement, (2) has a DMM Quoted Size for an applicable month that is at least 25% of the NYSE Quoted Size, for providing liquidity that is more than 15% of the NYSE’s total intraday adding liquidity in each such security for that month, and (3) the DMMs quotes at the NBBO in the applicable security at least 50% of the time in the applicable month. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0034 per share if the quoting and providing requirements are met.

DMMs currently earn a rebate of \$0.0015 per share when adding liquidity with orders, other than MPL orders, in More Active Securities if the More Active Security has a stock price of \$1.00 or more and the DMM does not meet the More Active Securities Quoting in the applicable month. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0014 per share if the quoting requirements are met.

DMMs are currently eligible for a rebate of \$0.0035 per share when adding liquidity with orders, other than MPL orders, in Less Active Securities if the Less Active Security has a stock price of \$1.00 or more and the DMM meets the Less Active Securities Quoting in the applicable month. The Exchange proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0031 per share if the quoting requirements are met.

DMMs are currently eligible for a rebate of \$0.0045 per share when adding liquidity with orders, other than MPL orders, in Less Active Securities if the Less Active Security has a stock price of \$1.00 or more and the DMM quotes at the NBBO in the applicable security at least 30% of the time in the applicable month. The Exchange proposes that DMMs electing the optional Rebate per

Security would instead receive an Optional Credit of \$0.0041 per share if the quoting requirements are met.

Finally, DMMs are currently eligible for a rebate of \$0.0015 per share when adding liquidity in shares of Less Active Securities if the Less Active Security has a stock price of \$1.00 or more and the DMM does not meet the Less Active Securities Quoting Requirement in the applicable security in the applicable month. The Exchange proposes to move this rate from its current position in the Price List to directly following the rebate described in the previous paragraph and proposes that DMMs electing the optional Rebate per Security would instead receive an Optional Credit of \$0.0011 per share if the quoting requirements are met.

#### NYSE CSII Fee Cap

Currently, the Exchange charges a fee of \$0.0004 per share (both sides) for executions in NYSE CSII.<sup>11</sup> Fees for executions in CSII are capped at \$100,000 [sic] per month per member organization. The Exchange proposes an alternative, lower cap of \$25,000 per month per member organization for member organizations that execute a Taking ADV, excluding liquidity taken by a DMM, of at least 1.30% of NYSE CADV and Open ADV of at least 8 million shares. The \$0.0004 per share fee for executions in NYSE CSII would remain unchanged.

#### Proposed Changes to Fees and Credits for UTP Securities

On April 9, 2018, the Exchange began trading UTP Securities on the Exchange on the Pillar trading platform.<sup>12</sup> The Exchange proposes the following changes to the fees and credits for UTP Securities.

#### Retail Credit

For securities priced at or above \$1.00, the Exchange proposes a rebate of \$0.0030 per share for UTP executions in orders designated as “retail”<sup>13</sup> that add liquidity to the Exchange.

<sup>11</sup> CSII runs on the Exchange from 4:00 p.m. to 6:30 p.m. Eastern Time and handles member organization crosses of baskets of securities of aggregate-priced buy and sell orders. See NYSE Rules 900–907.

<sup>12</sup> See Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR-NYSE-2017-36) (the “UTP Trading Rules Filing”). The term “UTP Security” means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1(ii).

<sup>13</sup> Orders designated as “retail” are orders that satisfy the Retail Modifier requirements of Rule 13.

<sup>10</sup> The “NYSE Quoted Size” is calculated by multiplying the average number of shares quoted on the NYSE at the NBBO by the percentage of time the NYSE had a quote posted at the NBBO. The “DMM Quoted Size” is calculated by multiplying the average number of shares of the applicable security quoted at the NBBO by the DMM by the percentage of time during which the DMM quoted at the NBBO. See Price List, n. 7.

### Quoting Requirements for SLP Tiered Credits

Currently, the Exchange offers tiered rates for displayed and nondisplayed orders by SLPs that add liquidity to the Exchange in UTP Securities priced at or above \$1.00. Specifically, Tier 2 provides a \$0.0029 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.01% per tape, and (2) meets the 10% average or more quoting requirement in 250 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (3) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Similarly, Tier 1 provides a \$0.0032 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.05% per tape, and (2) meets the 10% average or more quoting requirement in 500 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (3) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Finally, the Tape A Tier provides a \$0.00005 per share in an assigned UTP Security in addition to the Tape A SLP credit in Tape A assigned securities for SLPs adding displayed liquidity to the Exchange if the SLP (1) qualifies for the SLP Tier 1 provide rate in both Tape B and C or (2) quotes in excess of the 10% average quoting requirement in 300 or more assigned securities separately in Tapes B and Tape C pursuant to Rule 107B, and (3) where the SLP meets the 10% average quoting requirement pursuant to Rule 107B.

The provide volume component of the above SLP Tier requirements are waived until June 1, 2018.

In each case, the Exchange proposes to clarify that the quoting requirement (item (2) in the above description of the tier requirements) means quoting on an average daily basis, calculated monthly. To effectuate this change, the Exchange proposes to add the phrase “, on an average daily basis, calculated monthly,” after “quotes” in Tier 2, Tier 1 and the Tape A Tier.

\* \* \* \* \*

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member

organizations would have in complying with the proposed change.

### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>14</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>15</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

### Executions at the Open

The Exchange believes that the proposed additional \$20,000 cap for executions at the open for member organizations executing a Taking ADV, excluding liquidity taken by a DMM, of at least 1.30% of NYSE CADV and Open ADV of at least 8 million shares is reasonable, equitable and not unfairly discriminatory because it would encourage additional liquidity on the Exchange's opening auction and because members and member organizations benefit from the substantial amounts of liquidity that are present on the Exchange during such time.

The Exchange believes the proposed change is equitable and not unfairly discriminatory because it would continue to encourage member organizations to send orders to the open, thereby contributing to robust levels of liquidity in the open, which benefits all market participants. The proposed fee will encourage the submission of additional liquidity to a national securities exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity that are present on the Exchange during the opening. Moreover, the requirement is equitable and not unfairly discriminatory because it would apply equally to all similarly situated member organizations. Finally, the Exchange notes that the current fee and current and proposed caps together are comparable to those for executions at the opening on other markets.<sup>16</sup>

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(4) & (5).

<sup>16</sup> For example, NASDAQ charges \$0.0015 per share for certain orders executed in the NASDAQ Opening Cross and applies at \$35,000 fee cap per month per firm for such executions. See Nasdaq Rule 7018(e).

### DMM Optional Monthly Rebate Per Security Credit

The Exchange believes that providing Exchange DMMs with the option to receive lower per share transaction credits in exchange for monthly rebates per assigned security, up to a maximum credit of \$100,000 per month across all DMM assigned securities, is reasonable, equitable and not unfairly discriminatory because it would foster liquidity provision and stability in the marketplace and lessen DMM reliance on transaction fees, to the benefit of the marketplace and all market participants. Moreover, the proposal is reasonable, equitable and not unfairly discriminatory because it would balance the increased risks and heightened quoting and other obligations that DMMs on the Exchange have and that other market participants do not have. As such, it is equitable and not unfairly discriminatory to offer DMMs the option to receive a flat per security credit coupled with lower transaction fees that are in line with the best credit for other member organizations that do not have the same quoting and trading obligations as DMMs.<sup>17</sup> The requirement is also equitable and not unfairly discriminatory because it would apply equally to all DMM firms, who would have the option to elect (or not elect) to participate on a quarterly basis.

The Exchange also believes that assigning a maximum credit of \$100,000 per month for the Rebate Per Security is reasonable, equitable and not unfairly discriminatory. Further, the Exchange believes offering this credit to DMMs with 100 or more assigned securities will provide a further incentive for DMMs to quote and trade a greater number of securities on the Exchange and will generally allow the Exchange and DMMs to better compete for order flow, and thus enhance competition. The Exchange also believes that requirement of 100 or more assigned securities to qualify for the credit is equitable and not unfairly discriminatory because it would apply equally to all DMM firms.

### NYSE CSII Fee Cap

The Exchange believes that the proposed additional, lower monthly fee

<sup>17</sup> The proposed lower transaction fees are in line with the best credit for member organizations of \$0.0022 when the member organization has “Adding ADV” (i.e., when a member organization has ADV that adds liquidity to the Exchange during the billing month, excluding any liquidity added by a DMM) of at least 1.10% of NYSE CADV (defined in the Price List as the consolidated average daily volume of NYSE-listed securities), and executes MOC and LOC orders of at least 0.12% of NYSE CADV.

cap for CSII transactions is reasonable and an equitable allocation of fees because it would encourage the execution of additional liquidity on a public exchange, thereby promoting price discovery and transparency. The proposed change is also equitable and not unfairly discriminatory because those member organizations that make significant contributions to market quality and that contribute to price discovery by executing higher volumes would receive a lower fee. Further, the Exchange believes that the proposed cap is reasonable, equitable and not unfairly discriminatory because all similarly situated member organizations will be subject to the same fee structure and access to the Exchange's market would continue to be offered on fair and non-discriminatory terms.

#### Retail Credit

The Exchange believes that the proposed credit of \$0.0030 per share for UTP executions in orders designated as "retail" that add liquidity to the Exchange is reasonable, equitable and not unfairly discriminatory because it will encourage member organizations to provide additional retail order flow to a public market, to the benefit of the marketplace and all market participants. The proposed credit is also equitable and not unfairly discriminatory because it would apply equally to all member organizations with retail order flow. Member organizations not wishing to be eligible for the proposed pricing would be free to not designate orders in UTP Securities as "retail."

#### SLP Quoting Requirements

The Exchange believes that specifying that the quoting requirement for SLP tiered credits (Tier 2, Tier 1 and Tap A Tier) are on an average daily basis calculated monthly provides greater specificity and clarity to the Price List, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>18</sup> the Exchange believes that the

proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would foster liquidity provision and stability in the marketplace, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. In this regard, the Exchange believes that the transparency and competitiveness of attracting additional executions on an exchange market would encourage competition. The Exchange also believes that the proposed rule change is designed to provide the public and investors with a Price List that is clear and transparent.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were 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)<sup>19</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>20</sup> 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)<sup>21</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2018-21 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-NYSE-2018-21. 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

<sup>18</sup> 15 U.S.C. 78f(b)(8).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

<sup>21</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSE-2018-21 and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-10606 Filed 5-17-18; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83228; File No. SR-NASDAQ-2018-037]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Order Spread Protection

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 30, 2018, The Nasdaq Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 a proposal to amend the Market Order Spread Protection and reorganize Rule Chapter VI, Section 18 entitled, “Order Price Protections.”

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to amend Chapter VI, Section 18, entitled, “Order Price Protection” to “Risk Protections” and relocate all the order protections into a single rule and categorize them as either order protections, order and quote protections or market maker protections. The Exchange believes that placing all the order protections into a single rule will provide market participants with information as to the availability of these protections, which are all mandatory. The Exchange also proposes to amend the Market Order Spread Protection and Acceptable Trade Range Rules to add more specificity.

###### Universal Amendments

The Exchange proposes to restructure Chapter VI, Section 18 into three parts: (1) Order protections; (2) order and quote protections; and (3) market maker protections. The Exchange proposes to reletter and renumber the rule as well to provide a more organized structure. The Exchange believes that categorizing the various protections provides more information to market participants as to each of the risk protections.

###### Order Price Protection

The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to Order Price Protection.

###### Market Order Spread Protection

The Exchange proposes to relocate the Market Order Spread Protection rule from Chapter VI, Section 6(c) into Chapter VI, Section 18. The Exchange also proposes to amend the Market Order Spread Protection to proposed

Chapter VI, Section 18(a)(2) by adding an additional sentence stating, “Market Order Spread Protection shall not apply to the Opening Process and during a halt.” Today, the Market Order Spread Protection does not apply during the Opening Process and during a trading halt. The Exchange is adding this additional specificity to the rule to make clear when the protection is operative.

Both the Opening Process and trading halts have the same or more restrictive boundaries as those proposed for the Market Order Spread Protection. With respect to the Opening Process, a Valid Width National Best Bid or Offer is required. A Valid Width National Best Bid or Offer” or “Valid Width NBBO” shall mean the combination of all away market quotes and any combination of NOM-registered Market Maker orders and quotes received over the OTTO or SQF Protocols within a specified bid/ask differential as established and published by the Exchange.<sup>3</sup> The Valid Width NBBO is configurable by underlying, and tables with valid width differentials are posted by Nasdaq on its website.<sup>4</sup> The Exchange’s threshold for the Market Order Spread Protection is currently set at \$5.<sup>5</sup> Today, the maximum bid/ask differentials are more restrictive for both Penny and Non-Penny issues that are not LEAPS<sup>6</sup> (up to \$2.00 and \$2.25, respectively, for the bid/ask differentials). The maximum bid/ask differentials are equal to or more restrictive for both Penny and Non-Penny issues that are LEAPS (up to a \$5.00 bid/ask differential.) The Exchange believes that the Market Order Spread Protection is unnecessary during the Opening Process because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

As provided in Chapter V, Section 4 trading halts are subject to the reopening process as provided for in Chapter VI, Section 8. The same protections noted for the Opening Process above will apply for trading halts. The Exchange believes that the Market Order Spread Protection is

<sup>3</sup> Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker orders or quotes on NOM are crossed internally, then all such orders and quotes will be excluded from the Valid Width NBBO calculation. See NOM Chapter VI, Section 8(a)(6).

<sup>4</sup> The table with the differentials is published on the Exchange’s website at: [http://www.nasdaqtrader.com/content/technicalsupport/NOM\\_SystemSettings.pdf](http://www.nasdaqtrader.com/content/technicalsupport/NOM_SystemSettings.pdf).

<sup>5</sup> The current Market Order Spread Differential is set at \$5. The table in note 4 above notes the current setting.

<sup>6</sup> LEAPS are option series with a time to expiration greater than nine (9) months. See Chapter VI, Section 8.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



unnecessary during a trading halt because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

#### Acceptable Trade Range

The Exchange proposes to relocate the Acceptable Trade Protection from Chapter VI, Section 10(7) into Chapter VI, Section 18(b)(1). The Exchange also proposes to note more specifically within the rule that this risk protection applies to both quotes and orders. Today, the rule only refers to “orders” in a few places. The Exchange proposes to note “order/quotes” in those instances to make clear that both orders and quotes are protected. This addition and the categorization proposed within this rule change should make that this protection more transparent.

#### Anti-Internalization

The Exchange proposes to relocate the Anti-Internalization Protection from Chapter VI, Section 10(6) into Chapter VI, Section 18(c)(1). The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to the Anti-Internalization rule.

#### Automated Removal of Quotes and Orders

The Exchange proposes to relocate the Automated Removal of Quotes and Orders from Chapter VII, Section 6(f) into Chapter VI, Section 18(c)(2). The Exchange proposes only to reorganize the rule by adding new lettering and numbering to conform to the remainder of the proposed rule, no other amendments are being made to the Automated Removal of Quotes and Orders rule.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> 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, by grouping the various order protections applied on NOM into a single rule for ease of reference and adding headers to the rule to make clear whether the risk protection is an order, quote or order

and market maker protection. The Exchange believes the reorganization of the existing rule and relocation of various rules into Rule Chapter VI, Section 18 is a non-substantive rule change.

The Exchange is amending the Market Order Spread Protection to provide more specificity to that rule. Today, the Market Order Spread Protection does not apply during the Opening Process and during halts. The Exchange is proposing to memorialize this exception into the rule to provide more transparency as to the operation of this protection. Both the Opening Process and trading halts have the same or more restrictive boundaries as those proposed for the Market Order Spread Protection. With respect to the Opening Process, a Valid Width NBBO is required. With respect to the Opening Process, a Valid Width National Best Bid or Offer is required. A Valid Width NBBO is the combination of all away market quotes and any combination of NOM-registered Market Maker orders and quotes received over the OTTO or SQF Protocols within a specified bid/ask differential as established and published by the Exchange.<sup>9</sup> The Exchange’s requirements during the Opening Process are as restrictive as the setting for the Market Order Spread Protection. As provided in Chapter V, Section 4 trading halts are subject to the reopening process as provided for in Chapter VI, Section 8. The same protections noted for the Opening Process above will apply for trading halts. The Exchange believes that the Market Order Spread Protection is unnecessary during the Opening Process and during a trading halt because other protections are in place to ensure that the best bid and offer displayed on the Exchange are within a reasonable range.

The Exchange is also proposing to make clear that the Acceptable Trade Range protection is an order and quote protection. This particular rule does not specifically state orders and quotes in each place either is mentioned with the rule. The Exchange believes adding order/quote in each instance it appears will bring greater transparency to the rule and protect investors and the public interest by providing greater clarity to the rule.

<sup>9</sup> Away markets that are crossed will void all Valid Width NBBO calculations. If any Market Maker orders or quotes on NOM are crossed internally, then all such orders and quotes will be excluded from the Valid Width NBBO calculation. See NOM Chapter VI, Section 8(a)(6).

#### B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not impose an intra-market burden on competition with respect to the reorganization and relocation of the various rules into Rule Chapter VI, Section 18 because the various price protections will continue to apply uniformly to all market participants.

The Exchange does not believe that not applying the Market Order Spread Protection during the Opening Process and during a trading halt creates an undue burden on competition because these mechanisms have the same or more restrictive protections as the Market Order Spread Protection.

Finally, the amendments to the Acceptable Trade Range rule creates an undue burden on competition because the additional language brings more transparency to the existing rule.

#### 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<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>12</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>13</sup> however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that it believes it is important for it to be able to manage the administration of its rules on an immediately effective basis. Further, with respect to the amendment to the Market Order Spread Protection and Acceptable Trade Range, the Exchange believes that the amendment protects investors and the public interest by providing more transparency as to the operation of this protection during the Opening Process and during halts for the Market Order Spread Protection and also clarifies the Acceptable Trade Range rule. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2018-037 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.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-NASDAQ-2018-037. 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-NASDAQ-2018-037 and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-10604 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83225; File No. SR-C2-2018-009]

#### Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.11., Regarding the Opening Process for Index Options

May 14, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

<sup>15</sup> 17 CFR 200.30-3(a)(12).

“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 9, 2018, Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 opening process with respect to index options. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

\* \* \* \* \*

#### Cboe C2 Exchange, Inc.

##### Rules

\* \* \* \* \*

#### Rule 6.11. Opening Process

(a) *Opening Process.*

(1) No change.

(2) *Opening Price.*

(A) *Equity Options.* The System determines a single price at which a particular *equity* option series will be opened (the “Opening Price”) within 30 seconds of the First Listing Market Transaction[ or 9:30 a.m., as applicable]. If there are no contracts in a series that would execute at any price, the System opens the series for trading without determining an Opening Price. The Opening Price, if valid pursuant to subparagraph (3), of a series will be:

[(A)i] If there is both an NBB and an NBO, the midpoint of the NBBO (if the midpoint is a half increment, the System rounds down to the nearest minimum increment) (the “NBBO Midpoint”);

[(B)ii] if the NBBO Midpoint is not a valid price, the last disseminated transaction price in the series after 9:30 a.m. (the “Last Print”); or

[(C)iii] if the NBBO Midpoint and the Last Print are not valid prices, the last disseminated transaction in the series from the previous trading day (the “Previous Close”).

If the NBBO Midpoint, Last Print, and Previous Close are not valid, the Exchange in its discretion may extend the Order Entry Period by up to 30 seconds or open the series for trading.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

(B) *Index Options.* The System determines the Opening Price within 30 seconds of an away options exchange(s) disseminating a quote in a series. Following an away options exchange's dissemination of a quote in a series, if there are no contracts in a series that would execute at any price, the System opens the series for trading without determining an Opening Price. The Opening Price, if valid pursuant to subparagraph (3), of a series will be the NBBO Midpoint. If the NBBO Midpoint is not valid, the Exchange in its discretion may extend the Order Entry Period by up to 30 seconds or open the series for trading.

(3) *Validating the Opening Price.* For purposes of subparagraph (a)(2):

(A) The NBBO Midpoint and, for equity options, the Last Print[,] or the Previous Close, is a valid price if it is not outside the NBBO, and the price is no more than the following Minimum Amount away from the NBB or NBO for the series:

NBB	Minimum amount
Below \$2.00 .....	\$0.25
\$2.00 to \$5.00 .....	0.40
Above \$5.00 to \$10.00 .....	0.50
Above \$10.00 to \$20.00 .....	0.80
Above \$20.00 to \$50.00 .....	1.00
Above \$50.00 to \$100.00 .....	1.50
Above \$100.00 .....	2.00

and

(B) for equity options, the Last Print or Previous Close is a valid price if there is no NBB and no NBO, or there is a NBB (NBO) and no NBO (NBB) and the price is equal to or greater (less) than the NBB (NBO).

(4)–(5) No change.

(b)–(d) No change.

\* \* \* \* \*

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the 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 aspects 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 proposed rule change amends the opening process with respect to index options. C2 intends to migrate its technology onto the same trading platform as one of its affiliated exchanges, Cboe EDGX Exchange, Inc. ("EDGX"). C2 recently submitted a proposed rule change to, among other things, align certain system functionality with EDGX, including the opening process.<sup>5</sup> Pursuant to the opening process in C2 Rule 6.11(a)(1), after a time period determined by the Exchange following the first transaction in the securities underlying the options on the primary market that is disseminated after 9:30 a.m. with respect to equity options, or following 9:30 a.m. with respect to index options, the related option series open automatically in a random order, staggered over regular intervals of time pursuant to subparagraphs (a)(2) through (5). Rule 6.11(a)(2) states the System determines a price at which a particular option series will be opened (the "Opening Price") within 30 seconds of the applicable triggering event noted above. If there are no contracts in a series that would execute at any price, the System opens the series for trading without determining an Opening Price. The Opening Price, if valid, of a series will be:

- If there is both an NBB and an NBO, the midpoint of the NBBO (if the midpoint is a half increment, the System rounds down to the nearest minimum increment) (the "NBBO Midpoint");

- if the NBBO Midpoint is not a valid price, the last disseminated transaction price in the series after 9:30 a.m. (the "Last Print"); or

- if the NBBO Midpoint and the Last Print are not valid prices, the last disseminated transaction in the series from the previous trading day (the "Previous Close").

If the NBBO Midpoint, Last Print, and Previous Close are not valid, the Exchange in its discretion may extend the order entry period by up to 30 seconds or open the series for trading (a "contingent opening").

<sup>5</sup> See SR-C2-2018-005 (April 27, 2018). That proposed rule change as filed for immediate effectiveness and a request for a waiver of the 30-day operative delay to permit effectiveness on May 14, 2018, the date on which the proposed C2 technology migration is currently expected to occur. The rule text and numbers in this filing reference the rule text and numbers in that filing.

Pursuant to Rule 6.11(a)(3), the NBBO Midpoint, the Last Print, or the Previous Close is a valid price if it is no more than a specified minimum amount away from the national best bid or offer for the series. Additionally, the Last Print or Previous Close is a valid price if there is no NBB and no NBO, or if there is a NBB (NBO) and no NBO (NBB) and the price is equal to or greater (less) than the NBB (NBO). Under this Opening Process, if a series has not opened yet on another exchange on a trading (and thus there is no NBBO and no Last Print), if there is a Previous Close Price, it will be a valid price and will be the Opening Price. Additionally, if there are no crossed contracts in a series, the series opens immediately following the time period referenced above.

The Exchange proposes to modify this process with respect to index options. Pursuant to the proposed rule change, for index options, the System will determine the Opening Price within 30 seconds of an away options exchange(s) disseminating a quote in a series.

Following an away options exchange's dissemination of a quote in a series, if there are no contracts in a series that would execute at any price, the System opens the series for trading without determining an Opening Price. The Opening Price, if valid, of a series will be the NBBO Midpoint. If the NBBO Midpoint is not valid, the Exchange in its discretion may extend the order entry period by up to 30 seconds or open the series for trading. In other words, the proposed rule change provides that an index option series will not open (with or without a trade) until after the series is open on another exchange. To the extent the Exchange receives a quote from another Exchange within the time period referenced above, and there are contracts that may trade, the Opening Process will essentially be the same, and a series will open with the NBBO Midpoint as an Opening Price (if valid). Additionally, the Exchange will continue to have the ability to use a contingent opening to open a series for trading if there is no valid Opening Price. The proposed rule change delays opening of a series on C2 in an index option series if there are no crossed contracts, and eliminates the possibility to open using the Last Print or Previous Close (as those will generally not be necessary if C2 waits for another exchange to open).

Currently, Russell 2000 Index ("RUT") options is the only index option class trading on C2. RUT options also trade on Cboe Exchange, Inc. ("Cboe Options"), an affiliated exchange of C2. Under current C2 Rule 6.11, if a RUT series was open on Cboe Options,

and if there are crossed orders on C2, the RUT series on C2 would open with an Opening Price equal to the NBBO Midpoint (if valid). If a RUT series was not yet open on C2 after 9:30 a.m., and there was a Previous Close for the series, the series would open on C2 with the Previous Close as the Opening Price. If there are no crossing orders on C2, a RUT series would open without an opening price, possibly before the RUT series was open on Cboe Options.

RUT options on Cboe Options generally open within 30 seconds after 9:30 a.m., and thus the Exchange expects RUT options on C2 following the technology migration to open for trading within 30 seconds (as set forth in the rule) at an Opening Price equal to the NBBO Midpoint if there are orders that can be crossed. However, it will be possible for a RUT series to open prior to the opening of that series on Cboe Options. The series on C2 would open without an Opening Price (if there are no crossed orders) or with an Opening Price equal to the Previous Close (if there are crossed orders) prior to the settlement value determination being completed on Cboe Options. If this were to occur, trading on C2 may then be occurring at very different prices than what is ultimately the opening trade price on Cboe Options. This is significant because, on certain dates, Cboe Options uses prices of RUT options trading on Cboe Options to determine settlement values for volatility index derivatives.<sup>6</sup> While trading in these options on volatility index derivative settlement days also generally opens within a few seconds after 9:30, there have been times when series being used to determine the settlement value took longer to open. Trading on another Exchange while Cboe Options is not yet open may impact the volatility settlement value determination and disrupt trading of volatility index derivatives. The proposed rule change eliminates the possibility of RUT options on C2 automatically opening for trading prior to those options being open on Cboe Options and thus interfering with the calculation of volatility index derivative settlement values.

While options exchanges have varying opening processes, the opening process on Nasdaq BX, LLC ("BX") is similar to the proposed rule change. Pursuant to BX Rule Section 8(b), if there is a possible trade on BX, a series will open with a valid width NBBO.<sup>7</sup> This is

similar to the proposed rule change, in that a valid NBBO Midpoint must be present for an index option series to open with a trade (which on C2 would only occur if another exchange was open for trading, because on C2, the NBBO that is used to determine the Opening Price is based on disseminated quotes of other exchanges and does not include orders and quotes on C2 prior to the opening of trading).<sup>8</sup> Additionally, if no trade is possible on BX, then BX will depend on one of the following to open: (1) A valid width NBBO, (2) a certain number of other options exchanges (as determined by BX) having disseminated a firm quote on OPRA, or (3) a certain period of time (as determined by the Exchange) has elapsed. As proposed, if no trade is possible, C2 will open an index option series after another exchange as [sic] disseminated a quote, which is consistent with number (2) above (for example, under BX's rule, it could determine to open if one other options exchange was open). While the proposed rule change does not explicitly provide for additional alternatives in the event no trade is possible, pursuant to Rule 6.11(c), C2 may adjust the timing of the Opening Process in a class if it believes it is necessary in the interests of a fair and orderly market.<sup>9</sup> Therefore, like BX, C2 could open a series after a certain amount of time has passed if the series does not open on another exchange.<sup>10</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>12</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

orders and quotes received on BX, within a specified bid/ask differential. See BX Rule Section 8(a)(6).

<sup>8</sup> See C2 Rule 1.1 (definition of NBBO).

<sup>9</sup> Number (1) above would not apply because, as noted above, the NBBO on C2 prior to the opening of trading does not include orders and quotes on C2.

<sup>10</sup> As stated in Rule 6.11(c), C2 makes and maintains records to document all determinations to deviate from the standard manner of the Opening Process, and periodically reviews these determinations for consistency with the interests of a fair and orderly market.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>13</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change eliminates the possibility of RUT options on C2 automatically opening for trading prior to those options being open on Cboe Options and thus interfering with the calculation of volatility index derivative settlement values, which promotes just and equitable principles of trade and perfects the mechanism of a free and open market and national market system. As discussed above, under certain circumstances, the proposed rule change is expected to have a de minimis impact on the opening of index option series on C2 because, to the extent the Exchange receives a quote from another Exchange within the time period following 9:30 a.m., and there are contracts that may trade, the Opening Process will essentially be the same, and a series will open with the NBBO Midpoint as an Opening Price (if valid). Additionally, the Exchange will continue to have the ability to use a contingent opening to open a series for trading if there is no valid Opening Price. Therefore, if an index option series is not yet open on another exchange, C2 will still have the ability to open the series for trading. As discussed above, the proposed rule change is similar to the opening process of another options exchange, which also provides that opening for trading may be dependent on whether another options exchange is open.<sup>14</sup>

## B. Self-Regulatory Organization's Statement on Burden on Competition

C2 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 will apply in the same manner to all market participants that participate in the C2 Opening Process for index options. The Exchange believes it is appropriate to limit the proposed change to index options,

<sup>13</sup> *Id.*

<sup>14</sup> See BX Rule Section 8(b).

<sup>6</sup> See Cboe Options Rule 6.2, Interpretation and Policy .01.

<sup>7</sup> On BX, a valid width NBBO is defined as the combination of all away option market quotes and

because some, such as RUT, are used to determine the settlement value for volatility index derivatives. A similar process does not occur for equity options, and thus, the risk of opening trading in an equity option interfering with a settlement process on another exchange is not present. As discussed above, the proposed rule change is similar to the opening process of another options exchange, which also provides that opening for trading may be dependent on whether another options exchange is open.<sup>15</sup>

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)<sup>16</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>18</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>19</sup> 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 asked the Commission to waive the 30-day operative delay so that the proposal is operative on May 14, 2018, which is also the date the C2 technology migration is to occur.<sup>20</sup> The Exchange states that on May 16, 2018 Cboe Options will determine settlement values for certain volatility index derivatives by using the prices of RUT options trading on Cboe Options.

According to the Exchange, waiver of the 30-day operative delay would avoid trading on C2 potentially interfering with the calculation of volatility index derivative settlement values by ensuring that on May 16, trading in RUT options on C2 will not begin before those options are open on Cboe Options. Accordingly, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest because it will avoid investor confusion that could result from C2 opening a dually and exclusively listed index option concurrently with, or prior to, Cboe Options, which could lead the two exchanges potentially to open at different prices given the material differences in their opening processes. The possibility for such divergence could be particularly confusing to investors on a volatility index settlement day, which will next occur on May 16. Therefore, the Commission hereby waives the operative delay and designates the proposal operative on May 14, 2018.<sup>21</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2018-009 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.

<sup>21</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-C2-2018-009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-C2-2018-009, and should be submitted on or before June 8, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2018-10601 Filed 5-17-18; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #15522 and #15523; Hawaii Disaster Number HI-00047]

**Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Hawaii**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Hawaii (FEMA-4366-DR), dated 05/11/2018.

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> See BX Rule Section 8(b).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>20</sup> See *supra* note 5.

*Incident:* Kilauea Volcanic Eruption and Earthquakes.

*Incident Period:* 05/03/2018 and continuing.

**DATES:** Issued on 05/11/2018.

*Physical Loan Application Deadline Date:* 07/10/2018.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/11/2019.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President’s major disaster declaration on 05/11/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Area:* Hawaii

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere .....	2.500
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere .....	2.500

The number assigned to this disaster for physical damage is 15522D and for economic injury is 155230.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2018-10658 Filed 5-17-18; 8:45 am]

**BILLING CODE 8025-01-P**

**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36193]

**Chicago Junction Railway Company, LLC—Change in Operators Exemption Including Interchange Commitment—Chicago Terminal Railroad Company**

Chicago Junction Railway Company, LLC (CJR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to assume operations over approximately 25 miles of rail line owned by Union Pacific Railroad Company (UP) located in the Centex Industrial Park and 11,500 feet of track in the adjacent Elk Grove Yard in Elk Grove Village, Ill. (the Lines). The Lines originate at the west end of UP’s approximate 800-foot Elk Grove Lead track extending from its Milwaukee Subdivision at milepost 7.8.

The verified notice indicates that the Lines are currently operated by Chicago Terminal Railroad Company (CTR) and that, as a result of this transaction, CJR will become a Class III carrier and replace CTR as the Lines’ operator. CJR states that CTR’s current operations on the Lines are governed by an agreement between UP and CTR that will be terminated as of May 31, 2018, and that CTR is ceasing its operation of the Lines pursuant to that termination and does not object to the proposed change in operators. CJR further states that it and UP have agreed to enter into a lease agreement providing for CJR’s lease and operation of, and provision of rail common carrier service on, the Lines. CJR states that it is a newly formed, noncarrier subsidiary of Progressive Rail Incorporated (PGR). According to CJR, PGR is a Class III rail carrier that controls five other Class III rail carriers that operate in the Upper Midwest and North Carolina.

This transaction is related to a concurrently filed verified notice of exemption in *Progressive Rail Inc.—Continuance in Control Exemption—Chicago Junction Railway*, Docket No. FD 36194, in which PGR seeks to continue in control of CJR upon CJR’s becoming a Class III rail carrier.

As required by 49 CFR 1150.33(h), CJR has disclosed in its verified notice that the lease agreement between CJR and UP contains an interchange commitment with respect to the lease payments by CJR to UP and that the agreement affects an interchange point with the Soo Line Railroad Company, d/b/a Canadian Pacific Railway, at Elk Grove Village.<sup>1</sup> CJR has provided additional information regarding the

interchange commitment as required by section 1150.33(h).

CJR certifies that its projected annual revenues as a result of this transaction will not exceed those that would result in the creation of a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed \$5 million. Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. CJR certifies that notice of the change in operator was served on the shippers on the Lines.

The earliest this transaction may be consummated is June 1, 2018, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 25, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36193, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

According to CJR, this action is exempt from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: May 15, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. 2018-10665 Filed 5-17-18; 8:45 am]

**BILLING CODE 4915-01-P**

**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36188]

**Wilmington Terminal Railroad, Limited Partnership—Temporary Trackage Rights Exemption—CSX Transportation, Inc.**

Pursuant to a written trackage rights agreement (Agreement) dated May 2, 2018,<sup>1</sup> CSX Transportation, Inc. (CSXT),

<sup>1</sup> A redacted version of the fully executed Agreement was filed with the notice. A confidential, unredacted version of the Agreement also was submitted under seal to be kept confidential by the Board under 49 CFR 1104.14(a).

<sup>1</sup> On May 9, 2018, CJR supplemented its verified notice of exemption to clarify the interchange point.

has agreed to grant temporary overhead trackage rights to Wilmington Terminal Railroad, Limited Partnership (WTRY), over CSXT's line between the Port of Wilmington in Wilmington, NC, at CSXT milepost ACB 249.74 and the switch at CSXT milepost ACB 243.96, and between the switch at CSXT milepost ACB 243.96 and the switch at CSXT's Davis Yard in Navassa, NC, at CSXT milepost SE 359.79, a distance of approximately 10.0 miles.

WTRY states that it intends to commence operations under the trackage rights agreement on or after the effective date of this notice. The transaction may be consummated on or after June 3, 2018, the effective date of the exemption (30 days after the verified notice of exemption was filed). The purpose of the trackage rights is to allow WTRY to bridge loaded and empty trains containing containers or trailers in intermodal service in connection with CSXT's "Queen City Express" service. Pursuant to the trackage rights agreement, the temporary trackage rights will expire twelve months after the effective date of the exemption, unless terminated earlier.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 25, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36188, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005

Market Street, Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: May 14, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Brendetta Jones,**  
*Clearance Clerk.*

[FR Doc. 2018-10591 Filed 5-17-18; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 36194]**

### **Progressive Rail Incorporated— Continuance in Control Exemption— Chicago Junction Railway Company, LLC**

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Chicago Junction Railway Company, LLC (CJR), upon CJR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Chicago Junction Railway—Change in Operators Exemption Including Interchange Commitment—Chicago Terminal Railroad, Docket No. FD 36193. In that proceeding, CJR seeks an exemption under 49 CFR 1150.31 to assume operations over approximately 25 miles of rail line owned by Union Pacific Railroad Company in the Centex Industrial Park and 11,500 feet of track in the adjacent Elk Grove Yard in Elk Grove Village, Ill.

The earliest this transaction may be consummated is June 1, 2018, the effective date of the exemption (30 days after the verified notice was filed). PGR states that it intends to consummate the transaction on June 1, 2018.

According to PGR, it owns or operates rail lines in Minnesota, Wisconsin, and Illinois. PGR states that it also controls five Class III railroads that operate in Minnesota, Missouri, Iowa, and North Carolina: Airlake Terminal Railway Company, LLC; Central Midland Railway Company; Iowa Traction Railway Company; Iowa Southern Railway Company; and Piedmont & Northern Railroad LLC. PGR further states it already owns and controls CJR, currently a noncarrier. PGR proposes to continue in control of CJR and its existing rail carrier subsidiaries once CJR acquires the authority to lease the rail line in Elk Grove Village and becomes a Class III carrier.

PGR represents that: (1) The rail line to be operated by CJR does not connect with any other railroads in the PGR corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect this line with any other railroad in the PGR corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 25, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36194, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

According to the Parties, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: May 15, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. 2018-10666 Filed 5-17-18; 8:45 am]

**BILLING CODE 4915-01-P**



**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36191]

**Iowa Pacific Holdings, LLC, Permian Basin Railways, and San Luis & Rio Grande Railway—Corporate Family Transaction Exemption—Grenada Railroad, LLC**

Iowa Pacific Holdings, LLC (IPH), Permian Basin Railways (PBR), and San Luis & Rio Grande Railway (SLRG) (collectively, the Parties) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family transaction.

According to the Parties, IPH is a noncarrier established for the purpose of owning and operating common carrier short line railroads and non-common carrier excursion passenger railroads. The Parties state that PBR is a wholly owned corporate subsidiary of IPH established for the purpose of owning common carrier short line railroads. The Parties further state that PBR directly controls the following Class III common carrier short line railroads: Chicago Terminal Railroad, Mount Hood Railroad, and SLRG. According to the Parties, through SLRG, PBR controls three additional Class III common carrier short line railroads: Saratoga & North Creek Railway, Grenada Railroad, LLC (GRR), and an 80% interest in Massachusetts Coastal Railroad.

The Parties state that GRR was initially established as a direct subsidiary of PBR; however, on or about October 13, 2015, IPH's management decided to place control of GRR under SLRG rather than directly under PBR. The Parties state that IPH and PBR transferred their direct ownership of GRR to their subsidiary, SLRG, without realizing that authority from the Surface Transportation Board (Board) would be required. According to the Parties, upon learning that authority was required, the Parties instructed their counsel to seek Board approval.

According to the Parties, IPH's management transferred ownership of GRR from PBR to SLRG for business and tax reasons. The Parties further state that they propose to sell a majority interest in GRR to a third party "that will invest substantial assets in the Line to more fully develop its potential."<sup>1</sup>

The Parties certify that the transaction involved no provision or agreement that

<sup>1</sup> This notice of exemption applies only to the intra-corporate family transfer of GRR from PBR to SLRG, not to any proposed sale of GRR to a third party.

would limit future interchange with a third-party connecting carrier.<sup>2</sup>

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3).<sup>3</sup> Unless stayed, the exemption will be effective on June 3, 2018<sup>4</sup> (30 days after the verified notice was filed).<sup>5</sup>

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the exemption. Petitions for stay must be filed no later than May 25, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36191, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, Clark Hill Strasburger, 1025 Connecticut Ave. NW, Suite 717, Washington, DC 20036.

According to the Parties, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

<sup>2</sup> The Parties' certification cites to 49 CFR 1180.3(g)(4); however, the correct cite is 49 CFR 1180.4(g)(4).

<sup>3</sup> Section 1180.2(d)(3) exempts transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

<sup>4</sup> The Parties did not request retroactive authorization, and the exemption invoked by the Parties does not provide for retroactive effectiveness. See *Wendelin—Continuance in Control—RMW Ventures, LLC*, FD 35801, slip op. at 2 n.1 (STB served Mar. 21, 2014) (noting that the authority for a continuance in control exemption under 49 CFR 1180.2(d)(2) would be effective prospectively only); see also *Kan. City S. Lines, Inc.—Corp. Family Transaction Exemption—KCS Transp. Co.*, FD 33510, slip op. at 1 n.1 (STB served Dec. 10, 1997) ("no class exemption provides for retroactive application"). Accordingly, the authority will be effective prospectively only.

<sup>5</sup> The Parties initially filed their verified notice of exemption on April 27, 2018, but supplemented it on May 4, 2018. Therefore, May 4, 2018, is the official filing date.

Board decisions and notices are available on our website at "WWW.STB.GOV."

Decided: May 15, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2018-10664 Filed 5-17-18; 8:45 am]

BILLING CODE 4915-01-P

**SURFACE TRANSPORTATION BOARD**

[Docket No. AB 55 (Sub-No. 783X)]

**CSX Transportation, Inc.—Discontinuance of Service Exemption—in Baldwin and Hancock Counties, GA**

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 25-mile rail line on its Atlanta Division, Camak Subdivision between milepost YYM 22.0 and milepost YYM 47.0 in Baldwin and Hancock Counties, Ga. (the Line). The Line traverses United States Postal Service Zip Codes 31087 and 31061.

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)<sup>1</sup> to subsidize

<sup>1</sup> The Board modified its OFA procedures effective July 29, 2017. Among other things, the

continued rail service has been received, this exemption will be effective on June 17, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)<sup>2</sup> must be filed by May 28, 2018.<sup>3</sup> Petitions for reconsideration must be filed by June 7, 2018, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at "[WWW.STB.GOV](http://WWW.STB.GOV)."

Decided: May 10, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2018-10348 Filed 5-17-18; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF STATE

### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Public Notice 10418]

#### Notice of Termination of United States- Ecuador Bilateral Investment Treaty

**ACTION:** Notice of termination.

**SUMMARY:** The Government of Ecuador has delivered to the United States a notice of termination for the bilateral investment treaty between the two countries. As a result, the treaty terminates as of May 18, 2018, except that it will continue to apply for another 10 years to investments made or acquired prior to the date of termination

OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly-available information. See *Offers of Financial Assistance*, EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,800. See 49 CFR 1002.2(f)(25).

<sup>3</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

(May 18, 2018) and to which the treaty otherwise applies.

**FOR FURTHER INFORMATION CONTACT:**

Pamela Phan, Senior Treaty Negotiator, Office of Investment Affairs at the Department of State, at [PhanPN@state.gov](mailto:PhanPN@state.gov) or (202) 736-4246, or Lauren Mandell, Deputy Assistant U.S. Trade Representative for Investment at the Office of the U.S. Trade Representative, at [Lauren\\_A\\_Mandell@ustr.eop.gov](mailto:Lauren_A_Mandell@ustr.eop.gov) or (202) 395-9444.

**SUPPLEMENTARY INFORMATION:** Ecuador delivered a notice dated May 18, 2017, that it was terminating the "Treaty between the United States of America and the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investment" ("the Treaty"). Pursuant to the terms of the Treaty, termination takes effect one year from the date of that notice.

The Treaty was signed at Washington on August 27, 1993, and entered into force on May 11, 1997. Under the terms of the Treaty, either Party may terminate the Treaty at the end of the initial ten-year period, or any time thereafter, by giving one year's written notice to the other Party. The provisions of the Treaty will continue to apply for an additional 10 years to all investments made or acquired prior to the date of termination and to which the Treaty otherwise applies. The Treaty provides protections to cross-border investment between the two countries and the option to resolve investment disputes through international arbitration. The Department of State and the Office of the U.S. Trade Representative, which co-lead the U.S. bilateral investment treaty program, are providing this notice so that existing or potential U.S. investors in Ecuador can factor the termination of the Treaty into their business planning, as appropriate.

**Pamela Phan,**

*Senior Treaty Negotiator and Advisor, Office of Investment Affairs, Department of State.*

**Lauren Mandell,**

*Deputy Assistant U.S. Trade Representative, Office of the U.S. Trade Representative.*

[FR Doc. 2018-10659 Filed 5-17-18; 8:45 am]

**BILLING CODE 4710-AE-P**

## DEPARTMENT OF TRANSPORTATION

### Notice of Final Federal Agency Actions on SH 205 From North of John King (Rockwall County Line) to SH 78 in Collin County, Texas

**AGENCY:** Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

**ACTION:** Notice of limitation on claims for judicial review of actions by TxDOT and federal agencies.

**SUMMARY:** This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to statute and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. The actions relate to a proposed highway project, SH 205 from North of John King (Rockwall County Line) to SH 78 in Collin County, in the State of Texas. These actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway project will be barred unless the claim is filed on or before October 15, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:**

Carlos Swonke, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416-2734; email: [carlos.swonke@txdot.gov](mailto:carlos.swonke@txdot.gov). TxDOT's normal business hours are 8:00 a.m.-5:00 p.m. (central time), Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Texas: SH 205 from North of John King (Rockwall County Line) to SH 78 in Collin County, Texas. The proposed improvements would widen the existing facility from a two-lane rural to an ultimate six-lane urban divided highway. Interim improvements would include constructing a four-lane urban roadway with an inside 12-foot wide travel lane in each direction and an outside 14-foot travel lane in each direction for shared use by bicycles and vehicles. A 42-foot wide median would divide the northbound and southbound lanes. In the ultimate phase of construction, inside widening would occur within the 42-foot wide median and an additional 12-foot wide lane would be constructed in each direction with an 18-foot median remaining. The length of the

proposed project is approximately 2.9 miles. The purpose of the proposed project is to improve mobility and safety within the SH 205 corridor.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the documentation supporting the Categorical Exclusion (CE) Determination approved on April 24, 2018, and other documents in the TxDOT project file. The CE Determination and other documents are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E. Highway 80, Mesquite, TX 75150; telephone: (214) 320-6244.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air*: Clean Air Act, 42 U.S.C. 7401-7671(q).

3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. *Wildlife*: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

7. *Wetlands and Water Resources*: Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)-300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401-406; Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA-21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m),

133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001-4128.

8. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

**Authority**: 23 U.S.C. 139(l)(1).

Issued on: May 3, 2018.

**Michael T. Leary**,

*Director, Planning and Program Development, Federal Highway Administration.*

[FR Doc. 2018-09985 Filed 5-17-18; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Funding Opportunity for Positive Train Control Systems Grants Under the Consolidated Rail Infrastructure and Safety Improvements Program

**AGENCY**: Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION**: Notice of Funding Opportunity (NOFO or notice).

**SUMMARY**: This NOFO details the application procedures and requirements to obtain grant funding for eligible positive train control (PTC) system projects of the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program. The funding in this NOFO is provided by the Consolidated Appropriations Act, 2018, Division L, Title I, Public Law 115-141 (2018 Appropriation). The opportunity described in this notice is made available under Catalog of Federal Domestic Assistance (CFDA) number 20.325, "Consolidated Rail Infrastructure and Safety Improvements."

**DATES**: Applications under this solicitation are due no later than 5:00 p.m. EDT, July 2, 2018. Applications for funding or supplemental material in support of such an application received after 5:00 p.m. EDT on July 2, 2018 will

not be considered for funding. Incomplete applications will not be considered for funding. See Section D of this notice for additional information on the application process.

**ADDRESSES**: Applications must be submitted via [www.Grants.gov](http://www.Grants.gov). Only applicants who comply with all submission requirements described in this notice and submit applications through [www.Grants.gov](http://www.Grants.gov) will be eligible for award. For any supporting application materials that an applicant is unable to submit via [www.Grants.gov](http://www.Grants.gov) (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Ms. Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36-412, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

**FOR FURTHER INFORMATION CONTACT**: For further information in this notice, please contact Ms. Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36-412, Washington, DC 20590; email: [amy.houser@dot.gov](mailto:amy.houser@dot.gov); phone: 202-493-0303.

#### SUPPLEMENTARY INFORMATION:

*Notice to applicants*: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. A list providing the definitions of key terms used throughout the NOFO is in Section A(2) below. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and specific eligibility requirements described herein that applicants must comply with to submit an application. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 25 pages in length.

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## A. Program Description

### 1. Overview

The purpose of this notice is to solicit applications for competitive PTC system project funding authorized under Section 11301 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (2015); 49 U.S.C. 24407 and funded in the 2018 Appropriation. Together with the FAST Act, the 2018 Appropriation provides funding made available under this NOFO to fund the deployment of PTC system technology for Intercity Passenger Rail Transportation, freight rail transportation and/or Commuter Rail Passenger Transportation. Projects selected under this NOFO for Commuter Rail Passenger Transportation may be transferred to the Federal Transit Administration for grant administration. Projects selected for Intercity Passenger Rail Transportation and freight rail transportation will be administered by the FRA.

A railroad must fully implement a PTC system on all required route miles by December 31, 2018, unless a railroad qualifies for and obtains FRA approval of an alternative schedule (*i.e.*, a deadline no later than December 31, 2020) under the Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act). The PTCEI Act authorizes, and requires, FRA to approve a railroad's alternative schedule only if the railroad demonstrates in a written notification that it has met all statutory criteria for an alternative schedule, including that it has: (1) Installed, by December 31, 2018, all PTC system hardware consistent with the governing PTC Implementation Plan (PTCIP); (2) acquired, by December 31, 2018, all spectrum necessary to implement its PTC system consistent with the governing PTCIP, and (3) made sufficient progress on employee training, revenue service demonstration, and other criteria as specified under 49 U.S.C. 20157(a)(3)(B)(i)–(vii).

### 2. Definitions of Key Terms

a. “Benefit-Cost Analysis” (“BCA” or “Cost-Benefit Analysis”) is a systematic, data driven, and transparent analysis comparing monetized project benefits and costs, using a no-build baseline and properly discounted present values, including concise documentation of the assumptions and methodology used to produce the analysis; a description of the baseline, data sources used to project outcomes, and values of key input parameters; basis of modeling including spreadsheets, technical memos, etc.; and presentation of the calculations in sufficient detail and

transparency to allow the analysis to be reproduced and sensitivity of results evaluated by FRA. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA's website for some rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI applications.

b. “Commuter Rail Passenger Transportation” means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple ride, and commuter tickets and morning and evening peak period operations. See 49 U.S.C. 24102(3).

c. “Construction” means the production of fixed works and structures or substantial alterations to such structures or land and associated costs.

d. “Final Design” (“FD”) means design activities following Preliminary Engineering, and at a minimum, includes the preparation of final Construction plans, detailed specifications, and estimates sufficiently detailed to inform project stakeholders (designers, reviewers, contractors, suppliers, etc.) of the actions required to advance the project from design through completion of Construction.

e. “Intercity Rail Passenger Transportation” means rail passenger transportation, except Commuter Rail Passenger Transportation. See 49 U.S.C. 24401(3). In this notice, “Intercity Passenger Rail Service” and “Intercity Passenger Rail Transportation” are equivalent terms to “Intercity Rail Passenger Transportation.”

f. “National Environmental Policy Act” (“NEPA”) is a Federal law that requires Federal agencies to assess the environmental impacts of a proposed action in consultation with appropriate federal, state, and local authorities, and with the public. The NEPA class of action depends on the nature of the proposed action, its complexity, and the potential impacts. For purposes of this NOFO, NEPA also includes all related Federal laws and regulations including Section 4(f) of the Department of Transportation Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. (See FRA's Environmental Procedures at: <https://www.fra.dot.gov/eLib/details/L02561>.)

g. “Positive Train Control system” (“PTC system”) is defined by 49 CFR 270.5 to mean a system designed to

prevent train-to-train collisions, overspeed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position, as described in 49 CFR part 236, subpart I.

h. “Preliminary Engineering” (“PE”) means engineering design to: (1) Define a project, including identification of all environmental impacts, design of all critical project elements at a level sufficient to assure reliable cost estimates and schedules, (2) complete project management and financial plans, and (3) identify procurement requirements and strategies. The PE development process starts with specific project design alternatives that allow for the assessment of a range of rail improvements, specific alignments, and project designs—to be used concurrent with NEPA and related analyses. PE occurs prior to FD and Construction.

i. “Rail Carrier” means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation. See 49 U.S.C. 10102(5).

j. “Rural Project” means a project in which all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a Rural Area.

k. “Rural Area” is defined in 49 U.S.C. 24407(g)(2) to mean any area not in an urbanized area as defined by the Census Bureau. The Census Bureau defines “Urbanized Area” (“UA”) as an area with a population of 50,000 or more people.<sup>1</sup> Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at [http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/ua/](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/).

## B. Federal Award Information

### 1. Available Award Amount

The total funding available for awards under this NOFO is \$250,000,000 for eligible PTC system projects under 49 U.S.C. 24407(c)(1). Under 49 U.S.C. 24407(g), at least \$62,500,000 of the PTC funds are available for Rural Projects. The balance of the CRISI Program funding provided under the 2018 Appropriation for eligible intercity passenger and freight railroad projects will be made available under a separate NOFO.

<sup>1</sup> See 74 FR 53030, 53043 (August 24, 2011) available at <https://www2.census.gov/geo/pdfs/reference/fedreg/fedregv76n164.pdf>.

## 2. Award Size

There are no predetermined minimum or maximum dollar thresholds for awards. FRA anticipates making multiple awards with the available funding. FRA may not be able to award grants to all eligible applications, nor even to all applications that meet or exceed the stated evaluation criteria (see Section E, Application Review Information). Projects may require more funding than is available. FRA encourages applicants to propose projects or components of projects that have operational independence that can be completed and implemented with the level of funding available together with other sources.

FRA strongly encourages applicants to identify and include other state, local, public, or private funding or financing to support the proposed project.

## 3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under these cooperative agreements will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage alongside Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: <https://www.fra.dot.gov/eLib/Details/L19057>.

## 4. Concurrent Applications

As DOT and FRA are concurrently soliciting applications for transportation infrastructure projects for several financial assistance programs, applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for PTC system project funding, applicants must indicate the other programs to which they submitted or plan to submit an application for funding the entire project or certain project components, as

well as highlight new or revised information in the PTC system project application that differs from the application(s) for other federal financial assistance programs.

## C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, project eligibility, and project component operational independence. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in Section D of this NOFO.

### 1. Eligible Applicants

The following entities are eligible applicants:

- a. A State;
- b. A group of States;
- c. An Interstate Compact;
- d. A public agency or publicly chartered authority established by one or more States;<sup>2</sup>
- e. A political subdivision of a State;
- f. Amtrak or another Rail Carrier that provides Intercity Rail Passenger Transportation (as defined in 49 U.S.C. 24102);
- g. A Class II railroad or Class III railroad (as those terms are defined in 49 U.S.C. 20102);
- h. Any Rail Carrier or rail equipment manufacturer in partnership with at least one of the entities described in paragraph (a) through (e);
- i. The Transportation Research Board together with any entity with which it contracts in the development of rail-related research, including cooperative research programs;
- j. A University transportation center engaged in rail-related research; or
- k. A non-profit labor organization representing a class or craft of employees of Rail Carriers or Rail Carrier contractors.

Applications must identify an eligible applicant as the lead applicant. The lead applicant serves as the primary point of contact for the application, and if selected, as the recipient of the PTC system grant award. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

### 2. Cost Sharing or Matching

The Federal share of total costs for projects funded under this notice will not exceed 80 percent, though FRA will provide selection preference to applications where the proposed Federal share of total project costs is 50 percent or less. The estimated total cost of a project must be based on the best

available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment and/or facilities.

Additionally, in preparing estimates of total project costs, applicants should refer to FRA's cost estimate guidance documentation, "Capital Cost Estimating: Guidance for Project Sponsors," which is available at: <https://www.fra.dot.gov/Page/P0926>.

The minimum 20 percent non-Federal match may be comprised of public sector (e.g., state or local) and/or private sector funding. FRA will not consider any Federal financial assistance, nor any non-Federal funds already expended (or otherwise encumbered) that do not comply with 2 CFR 200.458 toward the matching requirement. FRA is limiting the first 20 percent of the non-Federal match to cash contributions only. FRA will not accept "in-kind" contributions for the first 20 percent in matching funds. Eligible in-kind contributions may be accepted for any non-Federal matching beyond the first 20 percent. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306.

Amtrak or another Rail Carrier may use ticket and other non-Federal revenues generated from its operations and other sources as matching funds. Applicants must identify the source(s) of its matching and other funds, and must clearly and distinctly reflect these funds as part of the total project cost.

Before applying, applicants should carefully review the principles for cost sharing or matching in 2 CFR 200.306. See Section D(2)(a)(iii) for required application information on non-Federal match and Section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs for reimbursement and matching contributions consistent with 2 CFR 200.458, as applicable. See Section D(6).

### 3. Other

#### a. Project Eligibility

Projects eligible for funding under this NOFO must be used to deploy PTC systems technology for Intercity Passenger Rail Transportation, freight rail transportation, and/or Commuter Rail Passenger Transportation. Eligible projects include: Back office systems; wayside, communications and onboard hardware equipment; software; equipment installation; spectrum; any component, testing and training for the

<sup>2</sup> See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

implementation of PTC systems; and interoperability. Maintenance and operating expenses incurred after a PTC system is placed in revenue service are ineligible. Applicants considering more comprehensive projects that include both PTC elements and other passenger/freight improvements are directed to request only the PTC element under this NOFO or submit applications for the more comprehensive project under the subsequent NOFO, which FRA will soon be issuing for the remainder of the 2018 CRISI funding.

Applicants are not limited in the number of projects for which they seek funding.

Applicants must complete all necessary Planning, PE and NEPA requirements for projects funded under this NOFO. Projects for FD must: Resolve remaining uncertainties or risks associated with changes to design scope; address procurement processes; and update and refine plans for financing the project or program to reflect accurately the expected year-of-expenditure costs and cash flow projections. Applicants selected for funding under this NOFO must demonstrate the following to FRA's satisfaction:

- i. PE is completed for the proposed project, resulting in project designs that are reasonably expected to conform to all regulatory, safety, security, and other design requirements, including those under the Americans with Disabilities Act (ADA);
- ii. NEPA is completed for the proposed project;
- iii. Signed agreements with key project partners, including infrastructure-owning entities; and
- iv. A project management plan is in place for managing the implementation of the proposed project, including the management and mitigation of project risks.

**b. Project Component Operational Independence**

If an applicant requests funding for a project that is a component or set of components of a larger project, the project component(s) must be attainable with the award amount, together with other funds as necessary, obtain operational independence, and must comply with all eligibility requirements described in Section C.

In addition, the component(s) must be capable of independent analysis and decision making, as determined by FRA, under NEPA (*i.e.*, have independent utility, connect logical termini, if applicable, and not restrict the consideration of alternatives for other reasonably foreseeable rail projects.)

**c. Rural Project**

FRA will consider a project to be in a Rural Area if all or the majority of the project (determined by geographic location(s) where the majority of the project funds will be spent) is located in a Rural Area. However, in the event FRA elects to fund a component of the project, then FRA will reexamine whether the project is in a Rural Area.

**D. Application and Submission Information**

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See Section D(2) for the application checklist. FRA welcomes the submission of additional relevant supporting documentation, such as planning, engineering and design documentation, and letters of support from partnering organizations that will not count against the Project Narrative 25-page limit.

**1. Address To Request Application Package**

Applicants must submit all application materials for PTC system projects in their entirety through [www.Grants.gov](http://www.Grants.gov) no later than 5:00 p.m. EDT, on July 2, 2018. FRA reserves the right to modify this deadline. General information for submitting applications through [Grants.gov](http://www.Grants.gov) can be found at: <https://www.fra.dot.gov/Page/P0270>.

For any supporting application materials that an applicant cannot submit via [Grants.gov](http://www.Grants.gov), such as oversized engineering drawings, an applicant may submit an original and two (2) copies to Ms. Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36-412, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

**2. Content and Form of Application Submission**

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding. Additionally, applicants selected to receive funding must generally satisfy

the grant readiness checklist requirements on <https://www.fra.dot.gov/Page/P0268> as a precondition to FRA issuing a grant award, as well as the requirements in 49 U.S.C. 24405 explained in part at <https://www.fra.dot.gov/page/P0185>. If a project is selected for PTC systems in Commuter Rail Passenger Transportation under 49 U.S.C. 24407(c)(1) and such funds are transferred in the Secretary's discretion, applicants will be required to comply with chapter 53 of Title 49 of the United States Code.

Required documents for an application package are outlined in the checklist below.

- i. Project Narrative (see D.2.a)
- ii. Statement of Work (see D.2.b.i)
- iii. Benefit-Cost Analysis (see D.2. b.ii)
- iv. SF424—Application for Federal Assistance
- v. Either: SF 424A—Budget Information for Non-Construction projects or SF 424C—Budget Information for Construction
- vi. Either: SF 424B—Assurances for Non-Construction projects or SF 424D—Assurances for Construction
- vii. FRA's Additional Assurances and Certifications
- viii. SF LLL—Disclosure of Lobbying Activities

**a. Project Narrative**

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Cover Page .....	See D.2.a.i.
II. Project Summary .....	See D.2.a.ii.
III. Project Funding .....	See D.2.a.iii.
IV. Applicant Eligibility .....	See D.2.a.iv.
V. Project Eligibility .....	See D.2.a.v.
VI. Detailed Project Description.	See D.2.a.vi.
VII. Project Location .....	See D.2.a.vii.
VIII. Evaluation and Selection Criteria.	See D.2.a.viii.
IX. Project Implementation and Management.	See D.2.a.ix.
X. PTC Readiness .....	See D.2.a.x.
XI. Environmental Readiness.	See D.2.a.xi.

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 25 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider for award applications with Project Narratives exceeding the 25-page limitation. If possible, applicants should

submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the

page number(s) of the relevant portion in the Project Narrative supporting documentation. The Project Narrative must adhere to the following outline.

i. *Cover Page*: Include a cover page that lists the following elements in a table:

Project Title Lead applicant Was a Federal grant application previously submitted for this project? If yes, state the name of the Federal grant program and title of the project in the previous application.  Is this a Rural Project? What percentage of the project cost is based in a Rural Area?  City(ies), State(s) where the project is located Urbanized Area where the project is located Population of Urbanized Area	Yes/no Federal Grant Program: Project Title: Yes/no Percentage of total project cost:
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ii. *Project Summary*: Provide a brief 4–6 sentence summary of the proposed project and what the project will entail. Include challenges the proposed project aims to address, and summarize the intended outcomes and anticipated benefits that will result from the proposed project.

funding arrangement. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. Identify any specific project components that the applicant proposes for partial project funding. If all or a majority of a project is located in a Rural Area, identify the Rural Area(s) and estimated percentage of project costs that will be spent in the Rural Area. Identify any previously incurred costs, as well as other sources of Federal funds committed to the project and any

pending Federal requests. Also, note if the requested Federal funding under this NOFO or other programs must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. If applicable, provide the type and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in 2 CFR 200.306.

*Example Project Funding Table:*

Task No.	Task name/project component	Cost	Percentage of total cost
1			
2			
Total Project Cost Federal Funds Received from Previous Grant Federal Funding Request Non-Federal Funding/Match  Portion of Non-Federal Funding from the Private Sector Portion of Total Project Costs Spent in a Rural Area Pending Federal Funding Requests		Cash: In-Kind:	

iv. *Applicant Eligibility*: Explain how the applicant meets the applicant eligibility criteria outlined in Section C of this notice, including references to creation or enabling legislation for public agencies and publicly chartered authorities established by one or more States.

the proposed project. If applicable, explain how the project will benefit communities in Rural Areas. Applicants must also:

or full implementation) of a PTC system required under 49 U.S.C. 20157.

(A) Document submission of a revised Positive Train Control Implementation Plan (PTCIP) to FRA as required by 49 U.S.C. 20157(a);

For all projects, applicants must provide information about proposed performance measures, as discussed in Section F(3)(c) and required in 2 CFR 200.301 and 49 U.S.C. 24407(f).

v. *Project Eligibility*: Explain how the project meets the project eligibility criteria.

(B) Document that it is a tenant on one or more host railroads that submitted a revised PTCIP to FRA as required by 49 U.S.C. 20157(a), which states the tenant railroad is equipping its rolling stock with a PTC system and provides all other information required under 49 CFR 236.1011 regarding the tenant railroad; or

vii. *Project Location*: Include geospatial data for the project, as well as a map of the project's location. On the map, include the Rural Area boundaries, if applicable, in which the project will take place.

vi. *Detailed Project Description*: Include a detailed project description that expands upon the brief project summary. This detailed description should provide, at a minimum, background on the challenges the project aims to address; the expected users and beneficiaries of the project, including all railroad operators; the specific components and elements of the project; and any other information the applicant deems necessary to justify

(C) Document why the applicant is not required to submit a revised PTCIP as required by 49 U.S.C. 20157(a), and whether the proposed project will assist in the deployment (*i.e.*, installation and/

viii. *Evaluation and Selection Criteria*: Include a thorough discussion of how the proposed project meets all the evaluation criteria and selection criteria, as outlined in Section E of this notice. If an application does not sufficiently address the evaluation and selection criteria, it is unlikely to be a competitive application.



ix. *Project Implementation and Management*: Describe proposed project implementation and project management arrangements. Include descriptions of the expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting (see <https://www.fra.dot.gov/Page/P0274>). Describe past experience in managing and overseeing similar projects.

x. *PTC Readiness*: If the railroad is subject to the statutory PTC mandate or if the railroad is a tenant railroad that operates on PTC-equipped territory and must equip its locomotives and other controlling rolling stock under 49 CFR 236.1006(a), provide a brief summary about the railroad's current progress toward fully implementing a PTC system under 49 CFR part 236, subpart I. For such railroads and for any other railroad, provide information about the railroad's progress towards completing all hardware installation required for implementation of a PTC system, testing the PTC system (including field testing and revenue service demonstration), training personnel under 49 CFR 236.1041–236.1049, conducting interoperability testing with any other railroads that operate on the same main line, and operating an FRA-certified PTC system in revenue service. In addition, and if applicable, applicants may refer to their most recent Quarterly PTC Progress Report (FRA Form F 6180.165) to provide additional details.

xi. *Environmental Readiness*: If the NEPA process is complete, an applicant should indicate the date of completion, and provide a website link or other reference to the documents demonstrating compliance with NEPA, which might include a final CE, Finding of No Significant Impact, or Record of Decision. If the NEPA process is not yet underway or is underway, but is not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all NEPA and related milestones. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying, and if necessary, updating this information in accordance with applicable NEPA requirements. Additional information regarding FRA's environmental processes and requirements are located at <https://www.fra.dot.gov/eLib/Details/L05286>.

b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA, and the applicant, can understand the expected outcomes of the proposed work to be performed and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW template to be considered for award. The SOW template is located at <https://www.fra.dot.gov/eLib/Details/L18661>. When preparing the budget as part of the SOW, the total cost of a project must be based on the best available information as indicated in cited references that include engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

ii. A Benefit-Cost Analysis (BCA), as an appendix to the Project Narrative for each project submitted by an applicant. The BCA must demonstrate in economic terms the merits of investing in the proposed project. The project narrative should summarize the project's benefits.

Benefits may apply to existing and new rail users, as well as users of other modes of transportation. In some cases, benefits may be applied to populations in the general vicinity of the project area. Improvements to shared-use rail corridors may benefit all users involved. All benefits claimed for the project must be clearly tied to the expected outcomes of the project. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA's website for some rail specific examples of how to apply the Benefit-Cost Analysis Guidance for Discretionary Grant Programs to CRISI applications.

iii. SF 424—Application for Federal Assistance;

iv. SF 424A—Budget Information for Non-Construction or SF 424C—Budget Information for Construction;

v. SF 424B—Assurances for Non-Construction or SF 424D—Assurances for Construction;

vi. FRA's Additional Assurances and Certifications; and

vii. SF LLL—Disclosure of Lobbying Activities.

Forms needed for the electronic application process are at [www.Grants.gov](http://www.Grants.gov).

c. Post-Selection Requirements

See subsection F(2) of this notice for post-selection requirements.

3. *Unique Entity Identifier, System for Award Management (SAM), and Submission Instructions*

To apply for funding through [Grants.gov](http://www.Grants.gov), applicants must be properly registered. Complete instructions on how to register and submit an application can be found at [www.Grants.gov](http://www.Grants.gov). Registering with [Grants.gov](http://www.Grants.gov) is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable Data Universal Numbering System (DUNS) and SAM requirements. (Please note that if a Dun & Bradstreet DUNS number must be obtained or renewed, this may take a significant amount of time to complete.) Late applications that are the result of a failure to register or comply with [Grants.gov](http://www.Grants.gov) applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through [Grants.gov](http://www.Grants.gov), applicants must:

a. Obtain a DUNS Number

A DUNS number is required for [Grants.gov](http://www.Grants.gov) registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for the government in identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–

866-705-5711 or by applying online at <http://www.dnb.com/us>.

b. Register With the SAM at [www.SAM.gov](http://www.SAM.gov)

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and sub recipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award. Information about SAM registration procedures is available at [www.sam.gov](http://www.sam.gov).

c. Create a *Grants.gov* Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on [www.Grants.gov](http://www.Grants.gov) and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at: <https://www.grants.gov/web/grants/applicants/organization-registration.html>.

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from *Grants.gov* and login at [www.Grants.gov](http://www.Grants.gov) to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://>

[www.grants.gov/web/grants/applicants/apply-for-grants.html](http://www.grants.gov/web/grants/applicants/apply-for-grants.html).

**Note:** Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

#### 4. Submission Dates and Times

Applicants must submit complete applications for PTC system projects to [www.Grants.gov](http://www.Grants.gov) no later than 5:00 p.m. EDT, July 2, 2018. FRA reviews [www.Grants.gov](http://www.Grants.gov) information on dates/times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. In order to apply for funding under this announcement, all applicants are expected to be registered as an organization with *Grants.gov*. Applicants are strongly encouraged to apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the *Grants.gov* registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

#### 5. Intergovernmental Review

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services within a State to submit a copy of the application to the State Single Point of Contact (SPOC), if one exists, and if this program has been selected for review by the State. Applicants must contact their State SPOC to determine if the program has been selected for State review.

#### 6. Funding Restrictions

Consistent with 2 CFR 200.458, as applicable, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grant recipients must seek written approval

from the administering agency for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without written approval may not be eligible for reimbursement or included as a grantee's matching contribution.

#### 7. Other Submission Requirements

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

### E. Application Review Information

#### 1. Criteria

##### a. Eligibility and Completeness Review

FRA will first screen each application for applicant and project eligibility (eligibility requirements are outlined in Section C of this notice), completeness (application documentation and submission requirements are outlined in Section D of this notice), and the 20 percent minimum match in determining whether the application is eligible.

FRA will then consider the applicant's past performance in developing and delivering similar projects and previous financial contributions, and previous competitive grant technical evaluation ratings that the proposed project received under previous competitive grant programs administered by the DOT if applicable.

##### b. Evaluation Criteria

FRA subject-matter experts will evaluate all eligible and complete applications using the evaluation criteria outlined in this section to determine project benefits and technical merit.

##### i. Project Benefits:

FRA will evaluate the Benefit-Cost Analysis of the proposed project for the anticipated private and public benefits relative to the costs of the proposed project and the summary of benefits provided in response to subsection D(2)(a)(ii) including—

(A) Effects on system and service performance;

(B) Effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(C) Efficiencies from improved integration with other modes; and

(D) Ability to meet existing or anticipated demand.

##### ii. Technical Merit:

FRA will evaluate application information for the degree to which—

(A) The tasks and subtasks outlined in the SOW are appropriate to achieve the expected outcomes of the proposed project.

(B) Applications indicate strong project readiness and meet project requirements.

(C) The technical qualifications and experience of key personnel proposed to lead and perform the technical efforts, and the qualifications of the primary and supporting organizations to fully and successfully execute the proposed project within the proposed timeframe and budget are demonstrated.

(D) The proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project.

(E) The applicant has, or will have the legal, financial, and technical capacity to carry out the proposed project; satisfactory continuing control over the use of the equipment or facilities; and the capability and willingness to maintain the equipment or facilities.

(F) If applicable, the proposed project is consistent with planning guidance and documents set forth by DOT, including those required by law or State rail plans developed under Title 49, United State Code, Chapter 227.

#### c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this subsection, the FRA Administrator will select projects applying the following selection criteria:

i. The FRA Administrator will give preference to projects for which the:

(A) Proposed Federal share of total project costs is 50 percent or less; and

(B) Net benefits of the grant funds will be maximized considering the BCA, including anticipated private and public benefits relative to the costs of the proposed project, and factoring in the other considerations in 49 U.S.C. 24407 (e).

ii. After applying the above preferences, the FRA Administrator will take into account the following key Departmental objectives:

(A) Supporting economic vitality at the national and regional level;

(B) Leveraging Federal funding to attract other, non-Federal sources of infrastructure investment, as well as accounting for the life-cycle costs of the project;

(C) Using innovative approaches to improve safety and expedite project delivery; and,

(D) Holding grant recipients accountable for their performance and

achieving specific, measurable outcomes identified by grant applicants.

#### 2. Review and Selection Process

FRA will conduct a three-part application review process, as follows:

a. Screen applications for completeness and eligibility;

b. Evaluate eligible applications (completed by technical panels applying the evaluation criteria); and

c. Select projects for funding (completed by the FRA Administrator applying the selection criteria).

#### F. Federal Award Administration Information

##### 1. Federal Award Notice

FRA will announce applications selected for funding in a press release and on the FRA website after the application review periods. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. A formal cooperative agreement or grant agreement signed by both the grantee and the FRA, including an approved scope, schedule, and budget, is required before the award is obligated and complete.

For all projects, obligation occurs when a selected applicant and FRA enter a written project specific cooperative agreement or grant agreement and is after the applicant has satisfied applicable requirements. For FD/Construction projects, these requirements may include transportation planning, PE and environmental reviews.

##### 2. Administrative and National Policy Requirements

Due to funding limitations, projects that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate the proposed projects are still viable and can be completed with the amount awarded.

Grantees and entities receiving funding from the grantee, must comply with all applicable laws and regulations. Examples of administrative and national policy requirements include: 2 CFR part 200; procurement standards; compliance with Federal civil rights laws and regulations; requirements for disadvantaged business enterprises, debarment and suspension requirements, and drug-free workplace requirements; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety

requirements including those applicable to PTC projects; NEPA; environmental justice requirements; performance measures under 49 U.S.C. 24407(f); 49 U.S.C. 24405, including the Buy America requirements and the provision deeming operators rail carriers and employers for certain purposes. Grants for PTC system projects selected under 49 U.S.C. 24407(c)(1) for Commuter Rail Passenger Transportation, if transferred to a different agency, must comply with the requirements of chapter 53 of Title 49.

See an example of standard terms and conditions for FRA grant awards at <https://www.fra.dot.gov/eLib/Details/L19057>.

##### 3. Reporting

###### a. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of \$150,000 (see 2 CFR 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). See 41 U.S.C. 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.205.

###### b. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically.

###### c. Performance Reporting

Each applicant selected for funding must collect information and report on

the project's performance using measures mutually agreed upon by FRA and the grantee to assess progress in achieving strategic goals and objectives.

#### G. Federal Awarding Agency Contacts

For further information regarding this notice and the grants program, please contact Ms. Amy Houser, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36-412, Washington, DC 20590; email: [amy.houser@dot.gov](mailto:amy.houser@dot.gov); phone: 202-493-0303.

#### H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI)"; (2) mark each affected page "CBI"; and (3) highlight or otherwise denote the CBI portions.

DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Issued in Washington, DC

**Ronald Louis Batory,**  
Administrator.

[FR Doc. 2018-10652 Filed 5-17-18; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA-2018-0057]

#### Reports, Forms, and Record Keeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.  
**ACTION:** Request for public comment on proposed collection of information.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget

(OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes the collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be received on or before July 17, 2018.

**ADDRESSES:** You may submit comments identified by DOT Docket Number NHTSA-2018-0057 using any of the following methods:

*Electronic submissions:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590.

*Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Fax:* 1-202-493-2251.

*Instructions:* Each submission must include the agency name and the docket number for this Notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kathy Sifrit, Contracting Officer's Representative, Office of Behavioral Safety Research (NPD-320), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Dr. Sifrit's phone number is 202-366-0868, and her email address is [kathy.sifrit@dot.gov](mailto:kathy.sifrit@dot.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How 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, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

*Title:* Hazard Perception and Distracted Driving Training Intervention for Teens.

*Type of Request:* New information collection.

*OMB Clearance Number:* None.

*Requested Expiration Date of Approval:* Three years from date of approval.

*Summary of the Collection of Information:* The National Highway Traffic Safety Administration (NHTSA) proposes to collect information from licensed teen drivers for a one-time voluntary study to evaluate Risk Awareness and Perception Training (RAPT), a hazard perception and distracted driving training intervention for teens to improve driving safety. NHTSA proposes to collect information from newly-licensed teen drivers to determine (1) their eligibility to participate in a study to evaluate RAPT hazard perception training; (2) their hazard perception performance before and after they complete RAPT or placebo training, and again six months after training; and (3) their driving exposure via driving logs to account for potential differences across participants. In addition, participants will agree to allow researchers to access their crash and citation records for the first six months of driving to support analyses of the effects of RAPT training on crash and citation rates.

These data will be analyzed to determine (1) whether, during the first six months of driving, new drivers who complete RAPT training have fewer crashes or traffic violations on their driving records than comparison group members who receive placebo training, (2) when they do crash, is there a difference in severity and at-fault between drivers who took RAPT training versus those who received placebo training, (3) is there a difference in driving exposure between those who

did and did not crash, and (4) is there an interaction between sex and training group as measured by crashes or crash type.

NHTSA will provide recruiting letters to an estimated 15,000 newly licensed drivers ages 16 through 19. Participation will be voluntary and solicited through the distribution of recruiting letters at Department of Motor Vehicle locations (DMVs) when new drivers obtain their license. The letter will contain the information a teen and their guardian(s) need to make an informed decision about participating in this study. Consent will be obtained through an informed consent agreement approved by an Institutional Review Board (IRB).

Consented study participants will be randomly assigned within age (16, 17, 18 or 19 years) and sex categories to either participation in the RAPT or the placebo condition. Participants in the RAPT condition will complete the training protocol, which will include questions about their driving exposure and crash/offence history in addition to hazard recognition training. Those in the placebo condition will view a vehicle maintenance video and respond to the same driving exposure and crash/offence history questions. The RAPT training protocol is a computerized training tool. Data regarding hazard perception skills before and after the training will be captured as part of the computerized program. Participants will also be invited to complete a six month follow up test to see whether they retained the RAPT training. The initial letter invitation will include a two-dollar incentive. Participants who complete the first test will receive five dollars, and those who complete the six month follow up will receive an additional ten dollars. A subsample of participants will also be asked to complete a trip log to record driving exposure, for which they will receive another ten dollars.

**Background:** The mission of the National Highway Traffic Safety Administration (NHTSA) is to save lives, prevent injuries and reduce economic costs due to motor vehicle crashes. In support of this mission, NHTSA's Office of Behavioral Safety Research studies behaviors and attitudes in highway safety, focusing on drivers, passengers, pedestrians, and motorcyclists, and it uses the results to develop and refine countermeasures to deter unsafe behaviors and promote safe alternatives. The safety of teen drivers is of particular concern. In 2016 there were 1,908 young drivers 15 to 20 years old who died in motor vehicle crashes. Nine percent of all drivers involved in fatal crashes in 2016 were 15 to 20 years

old, but these drivers only accounted for 5.4 percent of the total number of licensed drivers. In addition, motor vehicle traffic crashes were the leading cause of death for youth (16 to 20) in 2015.

**Description of the Need for the Information and Proposed Use of the Information:** Exposure-based analyses of crash risk have consistently shown that teens have an elevated crash risk. Further, crash risk studies have identified that the lack of skills among teen drivers, notably a limited ability to identify unexpected hazards on the road, is one reason teen driver crash rates are so high. Previous evaluations of RAPT have shown promise in terms of a training effect among teens. A 2017 NHTSA study showed RAPT training using software similar to that proposed for the current study improved hazard detection in on-road driving (DOT HS 812 379). A 2016 NHTSA evaluation of the effects of RAPT on teen drivers' crashes in California, however, produced mixed results (DOT HS 812 235). Crash analyses did not show an overall main effect of the program but there was a significant effect for males. Trained males had a 24% lower crash rate relative to the male comparison group. There was no significant difference in females' crash rates. While the results from the California study were encouraging, promotion of this intervention requires additional evidence of effectiveness in reducing crash risk.

**Data Collection Plan:** Respondents will be drivers aged 16 to 19 who received their provisional or unrestricted licenses (first licenses) within the previous two weeks. Participants will be recruited within two weeks of obtaining this license. Exclusion criteria are: Driver received a provisional or first license more than two weeks ago; driver is newly licensed but 20 years old or older; driver's parents do not consent to inclusion of child in the study; driver is not able to communicate in English; driver is not available for six-month follow-up retest; driver is not planning on driving at least one trip per week; driver has already received other hazard perception training. A roughly equal distribution of males and females will be recruited within each age cohort. Overall, 15,000 teens will be invited to participate in the first jurisdiction; we expect 7,500 to agree to participate. Of those, half will be randomly assigned to the treatment condition (RAPT training) and the other half to the placebo condition (vehicle maintenance video). To bolster the evaluation research design, we will invite another 5,000 teens from a second

jurisdiction to participate in the placebo condition, and expect half of this group to agree. This "external" evaluation component will help rule out alternative explanations in outcomes that are not associated with the RAPT training.

The initial invitation letter will be presented to 15,000 teens in the first jurisdiction and 5,000 teens in the second. Teens and their guardian(s) are expected to take an average of 2 minutes each to review the letter, including study inclusion criteria, for a total of 2,000 hours (up to three respondents reviewing each letter). We expect to recruit 10,000 participants (half of the 20,000 invitees). Teens who agree to participate in the study are expected to spend 45 minutes reading and signing the informed consent and completing the data collection and training protocol for a total of 7,500 hours. A subsample of 2,000 (of the 10,000) participants will also be asked to complete a one-week trip log. Completing the trip log will take an estimated 5 minutes per day or 35 minutes per week for a total of 1,167 hours. Finally, 7,500 (of the 10,000) participants will be asked to complete the six-month follow-up test lasting 15 minutes for a total of 1,875 hours.

**Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information:** The total estimated burden for recruitment (2,000 hours), the initial training and data collection (7,500 hours), the trip log (1,167 hours) and the follow-up data collection (1,875) is 12,542 hours.

**Authority:** 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC on May 15, 2018.

**Jeff Michael,**

*Associate Administrator, Research and Program Development.*

[FR Doc. 2018-10633 Filed 5-17-18; 8:45 am]

**BILLING CODE 4910-59-P**

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in

property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

OFAC: Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; Assistant Director for Licensing, tel.: 202-622-2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202-622-2410.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website ([www.treas.gov/ofac](http://www.treas.gov/ofac)).

**Notice of OFAC Actions**

On May 15, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

**Individuals**

1. KAREEM, Aras Habib (a.k.a. KAREEM, Aras Habib Mohamed; a.k.a. KARIM, Aras Habib; a.k.a. "HABIB, Aras"), Iraq; DOB 06 Aug 1967; POB Iraq; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, technological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person determined to be subject to E.O. 13224.

2. QASIR, Muhammad (a.k.a. KASSIR, Mohammed Jaafar; a.k.a. QASIR, Muhammad Jafar; a.k.a. "EYNAKI"; a.k.a. "FADI"; a.k.a. "GHOLI, Hossein"; a.k.a. "MAJID"; a.k.a. "SALAH, Shaykh"), Syria; DOB 12 Feb 1967; POB Dayr Qanun Al-Nahr, Lebanon; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male (individual) [SDGT] (Linked To: HIZBALLAH).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of,

HIZBALLAH, a person determined to be subject to E.O. 13224.

3. SEIF, Valiollah, Iran; DOB 1952; POB Nahavand, Hamadan Province, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, technological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person determined to be subject to E.O. 13224.

4. TARZALI, Ali, Iran; DOB 10 Oct 1964; POB Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport B23527205 (Iran); National ID No. 005-156675-3 (Iran); Birth Certificate Number 2233 (Iran) (individual) [SDGT] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)—QODS FORCE).

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, technological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS—QODS FORCE, a person determined to be subject to E.O. 13224.

**Entity**

1. AL-BILAD ISLAMIC BANK FOR INVESTMENT AND FINANCE P.S.C. (a.k.a. AL BILAD ISLAMIC BANK), 37 Building El-Karadeh 909 Street 1 Near Al Hurea Square, Baghdad, Iraq; Al Masbah Branch, Baghdad Al Masbah Intersection, 929 Street 17 Bldg. 40, Previously the German Embassy, Baghdad, Iraq; Erbil Branch, Erbil Province, 60 Bldg 354/132, 45 Street, Erbil, Iraq; Al Mawarid Branch, Baghdad—Street 62 Neighboring the Department of Electricity, Baghdad, Iraq; Al Nasiryah Branch, Zi Kar Province El Saray, Bldg. 2/239 Janat Al Janoub Hotel Building, Nasiryah, Iraq; Al Basra Branch Al Basra, Manawy Pasha Corniche Street, Basra, Iraq; Al Sadr Branch, Jameela District—8-22-512, Sadr City, Iraq; Al Jaderya Branch Baghdad, Al Jaderya—Versus Baghdad University, 906 Street 28—Dar 3, Baghdad, Iraq; Karbala Branch Karbala, Al Dareeba Intersection, Karbala, Iraq; Al Najaf Branch, Al Najaf Al Ashraf, Al Amir District—Al Koufa Street, Najaf, Iraq; Zakho Branch Dahook, Zakho—Ibrahim Al Khaleel Street, Baydar Boulevard, Zakho, Iraq; Al Mansour

Branch Baghdad, Al Mansour-12-G 605-M-Bldg, Baghdad, Iraq; Babel Branch Babel, Kalaj—Al Honood Branch, Babel, Iraq; Beirut Branch Lebabon, Beirut—Hamra Street, Broadway Center—Versus Costa Caf, Lebanon, Beirut, Lebanon; website [www.Bilad-Bank.com](http://www.Bilad-Bank.com); Additional Sanctions Information—Subject to Secondary Sanctions [SDGT] [IRGC] [IFSR].

Designated pursuant to section 1(c) of E.O. 13224 for being owned or controlled by ARAS HABIB KAREEM.

Dated: May 15, 2018.

**Andrea M. Gacki,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2018-10660 Filed 5-17-18; 8:45 am]

**BILLING CODE 4810-AL-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**Proposed Collection; Comment Request for Regulation Project**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning low-income taxpayer clinics grant application package and guidelines.

**DATES:** Written comments should be received on or before July 17, 2018 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Kerry.Dennis@irs.gov](mailto:Kerry.Dennis@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Low-Income Taxpayer Clinics 2018 Grant Application Package and Guidelines.

*OMB Number:* 1545-1648.

*Publication Number:* 3319.

*Abstract:* Publication 3319 outlines requirements of the IRS Low-Income

Taxpayer Clinics (LITC) program and provides instructions on how to apply for a LITC grant award. The IRS will review the information provided by applicants to determine whether to award grants for the Low-Income Taxpayer Clinics.

*Current Actions:* There are no changes being made to the burden associated with the collection tools at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Not for-profit institutions.

*Estimated Number of Respondents:* 310.

*Estimated Time per Respondent:* 29 hours, 2 minutes.

*Estimated Total Annual Burden Hours:* 9,000.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 2018.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2018-10627 Filed 5-17-18; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning inspection of applications for tax exemption and applications for determination letters for pension and other plans.

**DATES:** Written comments should be received on or before July 17, 2018 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at [Kerry.Dennis@irs.gov](mailto:Kerry.Dennis@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.

*OMB Number:* 1545-0817.

*Regulation Project Number:* T.D. 7845.

*Abstract:* Internal Revenue Code section 6104 requires applications for tax exempt status, annual reports of private foundations, and certain portions of returns to be open for public inspection. Some information may be withheld from disclosure. The Internal Revenue Service needs the required information to comply with requests for public inspection.

*Current Actions:* There are no changes to the paperwork burden previously approved by OMB.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal government.

*Estimated Number of Respondents:* 42,370.

*Estimated Time per Respondent:* 12 minutes.

*Estimated Total Annual Burden Hours:* 8,538.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 9, 2018.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2018-10622 Filed 5-17-18; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Information Collection; Comment Request

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing



information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments should be received on or before July 17, 2018 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317-5745, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Elaine.H.Christophe@irs.gov](mailto:Elaine.H.Christophe@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

The IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

1. *Title:* Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans.

*OMB Number:* 1545-2226.

*Form Number:* Form 5884-C.

*Abstract:* Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, was developed as a result of

VOW to Hire Heroes Act of 2011, PL 112-56. Section 261 of PL 112-56 expanded the Work Opportunity Credit to tax-exempt organizations that hire unemployed veterans. The tax credit is a reduction in payroll taxes paid by the tax-exempt organization. Form 5884-C allows a tax-exempt organization a way to claim the credit and provides the IRS the information to process the tax credit.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Individuals or households, Business or other for-profit groups, Not-for-profit institutions, Farms, Federal Government, State, Local, or Tribal Governments.

*Estimated Number of Respondents:* 60,530.

*Estimated Time per Respondent:* 6 hours 34 minutes.

*Estimated Total Annual Burden Hours:* 397,683.

2. *Title:* User Fee for Exempt Organization Determination Letter Request.

*OMB Number:* 1545-1798.

*Form Number:* Form 8718.

*Abstract:* The Omnibus Reconciliation Act of 1990 requires payment of a "user fee" with each application for an exempt organization determination letter. Because of this requirement, the Form 8718 was created to provide filers the means to enclose their payment and indicate what type of request they were making.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations, and not-for-profit institutions.

*Estimated Number of Respondents:* 14,376.

*Estimated Time per Respondent:* 5 minutes.

*Estimated Total Annual Burden Hours:* 719 hours.

3. *Title:* Pre-Screening Notice and Certification Request for the Work Opportunity Credit.

*OMB Number:* 1545-1500.

*Form Number:* 8850.

*Abstract:* Employers use Form 8850 as part of a written request to a state employment security agency to certify an employee as a member of a targeted group for purposes of qualifying for the work opportunity credit. The work opportunity credit covers individuals who begin work for the employer before July 1, 1999.

*Current Actions:* There are no changes being made to Form 8850 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations.

*Estimated Number of Respondents:* 440,000.

*Estimated Time per Respondent:* 7 hr., 22 min.

*Estimated Total Annual Burden Hours:* 3,242,800.

4. *Title:* Excise Tax on Greenmail.

*OMB Number:* 1545-1086.

*Form Number:* 8725.

*Abstract:* Form 8725 is used by persons who receive "greenmail" to compute and pay the excise tax on greenmail imposed under Internal Revenue Code section 5881. IRS uses the information to verify that the correct amount of tax has been reported.

*Current Actions:* There are no changes being made to the Form 8725 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations.

*Estimated Number of Respondents:* 12.

*Estimated Time per Response:* 7 hours, 37 minutes.

*Estimated Total Annual Burden Hours:* 92.

5. *Title:* Casualties and Thefts.

*OMB Number:* 1545-0177.

*Form Number:* 4684.

*Abstract:* Form 4684 is used by taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.

*Current Actions:* There are no changes being made to the Form 8725 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and business or other for-profit organizations.

*Estimated Number of Respondents:* 320,000.

*Estimated Time per Respondent:* 5 hrs., 43 min.

*Estimated Total Annual Burden Hours:* 1,830,400.

6. *Title:* Guidance Regarding the Treatment of Certain Contingent Payment Debt Instructions with one or

more Payments that are Denominated in, or Determined by Reference to, a Nonfunctional Currency.

*OMB Number:* 1545-1831.

*Product:* REG-106486-98 (TD 9157-Final).

*Abstract:* This document contains final regulations regarding the treatment

of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer's functional currency. These regulations are necessary because current regulations do not provide guidance concerning the tax treatment of such instruments. The regulations affect issuers and holders of such instruments.

**Current Actions:** There is no change in the paperwork burden previously approved by OMB.

**Type of Review:** Extension of a currently approved collection.

**Affected Public:** Businesses and other for-profit organizations, Farms.

**Estimated Number of Respondents:** 250.

**Estimated Time per Respondent:** 24 min.

**Estimated Total Annual Burden Hours:** 100.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax

return information are confidential, as required by 26 U.S.C. 6103.

Approved: May 1, 2018.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2018-10621 Filed 5-17-18; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Increase in Maximum Tuition and Fee Amounts Payable Under the Post-9/11 GI Bill

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform the public of the increase in the Post-9/11 GI Bill maximum tuition and fee amounts payable and the increase in the amount used to determine an individual's entitlement charge for reimbursement of a licensing, certification, or national test for the 2018-2019 academic year.

**FOR FURTHER INFORMATION CONTACT:**

Rodney Hopkins, Management and Program Analyst, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461-9800 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** For the 2017-2018 academic year, the Post-9/11

GI Bill allowed VA to pay the actual net cost of tuition and fees not to exceed the in-state amounts for students pursuing training at public schools: \$22,805.34 for students training at private and foreign schools, \$13,031.61 for students training at vocational flight schools, and \$11,076.86 for students training at correspondence schools. Additionally, the entitlement charge for individuals receiving reimbursement of the costs associated with taking a licensing, certification, or national test was 1 month (rounded to the nearest whole month) for each \$1,902.61 received.

Sections 3313, 3315, and 3315A of title 38 U.S.C. direct VA to increase the maximum tuition and fee payments and entitlement-charge amounts each academic year (beginning on August 1st) based on the most recent percentage increase determined under 38 U.S.C. 3015(h). The percentage increase is determined under 38 U.S.C. 3015(h). The most recent percentage increase determined under 38 U.S.C. 3015(h) was 3.8 percent, which was effective on October 1, 2017.

The maximum tuition and fee payments and entitlement charge amounts for training pursued under the Post-9/11 GI Bill beginning after July 31, 2018, and before August 1, 2019, are listed below. VA's calculations for the 2018-2019 academic year are based on the 3.8 percent increase.

2018-2019 ACADEMIC YEAR	
POST-9/11 GI BILL MAXIMUM TUITION AND FEE AMOUNTS	
TYPE OF SCHOOL	ACTUAL NET COST OF TUITION AND FEES NOT TO EXCEED
PUBLIC	In-State/Resident Charges
PRIVATE/FOREIGN	\$23,671.94
VOCATIONAL FLIGHT	\$13,526.81
CORRESPONDENCE	\$11,497.78
POST 9/11 ENTITLEMENT CHARGE AMOUNT FOR TESTS	
LICENSING AND CERTIFICATION TESTS	VA will charge 1 month entitlement (rounded to the nearest whole, non-zero, month) for each \$1,974.91 received.
NATIONAL TESTS	

### 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. Peter O'Rourke, Chief of Staff, Department of Veterans Affairs, approved this document on May 14, 2018, for publication.

Dated: May 14, 2018.

**Jeffrey M. Martin,**

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

[FR Doc. 2018-10609 Filed 5-17-18; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Public Notice of Proposed Waivers

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA) will operate a website where the public may review and comment on VA employee requests for waiver of the prohibition against an employee's receipt of any wages, salary, dividends, profits, gratuities, or services from, or ownership of any interest in, a for-profit educational institution in which an eligible person or veteran is pursuing a program of education under a VA education benefits program.

**FOR FURTHER INFORMATION CONTACT:** Christopher Britt, Office of General Counsel (02-EST), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202-461-7637 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 3683, and implementing regulations at 38 CFR 21.4005, Department of Veterans Affairs (VA) employees who received any wages, salary, dividends, profits, gratuities, or services from, or owned any interest in, a for-profit educational institution in which an eligible person or veteran is pursuing a program of education under a VA education benefits program, must be removed from Federal service, unless VA leadership grants a waiver.

On September 14, 2017, VA proposed to waive the application of § 3683(a) for

all VA employees, as long as employees abided by 18 U.S.C. 208 and 5 CFR 2635.502, two conflict-of-interest laws that limit the extent to which Federal employees may participate in Federal matters that affect their own financial interests and those of certain non-Federal persons or entities (see 82 FR 43288). On October 16, 2017, after further consideration, including review of comments submitted in response to the September 14, 2017, notice, VA withdrew this proposal (see 82 FR 48153).

VA will mandate that all employees who require a waiver under § 3683 must individually request a waiver from the appropriate VA official. Employees who satisfy the waiver criteria at 38 CFR 21.4005(b)(1) must request a waiver from either their facility head (for employees under the jurisdiction of a facility head) or the Director, Education Service (for employees not under the jurisdiction of a facility head). Employees who do not satisfy the waiver criteria at 38 CFR 21.4005(b)(1) must request a waiver from the Under Secretary for Benefits, as the Secretary of Veterans Affairs has delegated to the Under Secretary for Benefits the authority, under 38 CFR 21.4005(c)(3), to grant waivers to employees who do not satisfy the waiver criteria.

Section 3683(d) requires "reasonable notice and public hearings" prior to the granting of a waiver. Accordingly, when VA proposes to grant a waiver, VA will post data from the waiver request to a publicly available website ([https://](https://www.va.gov/ogc/38_usc_3683.asp)

[www.va.gov/ogc/38\\_usc\\_3683.asp](https://www.va.gov/ogc/38_usc_3683.asp)) and allow the public 30 days to comment on the proposed waiver. Courts have found that a "public hearing" requirement may be satisfied, at least in some circumstances, by written public notice and an opportunity to submit written comments. See, e.g., *UFW v. Adm'r, EPA*, 592 F.3d 1080, 2010 U.S. App. LEXIS 1712 (9th Cir., 2010). Because website posting of proposed waivers and soliciting written comments on these waivers would allow for more participation than in-person hearings, VA has concluded that such process would serve the purpose of § 3683 more effectively than in-person hearings at specified times and places.

### 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. Peter O'Rourke, Chief of Staff, Department of Veterans Affairs, approved this document on May 14, 2017, for publication.

Dated: May 14, 2018.

### Jeffrey M. Martin,

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

[FR Doc. 2018-10638 Filed 5-17-18; 8:45 am]

**BILLING CODE 8320-01-P**



# FEDERAL REGISTER

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Friday,

No. 97

May 18, 2018

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Part II

## The President

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Executive Order 13833—Enhancing the Effectiveness of Agency Chief Information Officers



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# Presidential Documents

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Title 3—

Executive Order 13833 of May 15, 2018

The President

## Enhancing the Effectiveness of Agency Chief Information Officers

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Purpose.** The Federal Government spends more than \$90 billion annually on information technology (IT). The vast majority of this sum is consumed in maintaining legacy IT infrastructure that is often ineffective and more costly than modern technologies. Modern IT systems would enable agencies to reduce costs, mitigate cybersecurity risks, and deliver improved services to the American people. While the recently enacted Modernizing Government Technology Act will provide needed financial resources to help transition agencies to more effective, efficient, and secure technologies, more can be done to improve management of IT resources. Department and agency (agency) Chief Information Officers (CIOs) generally do not have adequate visibility into, or control over, their agencies' IT resources, resulting in duplication, waste, and poor service delivery. Enhancing the effectiveness of agency CIOs will better position agencies to modernize their IT systems, execute IT programs more efficiently, reduce cybersecurity risks, and serve the American people well.

**Sec. 2. Policy.** It is the policy of the executive branch to:

(a) empower agency CIOs to ensure that agency IT systems are secure, efficient, accessible, and effective, and that such systems enable agencies to accomplish their missions;

(b) modernize IT infrastructure within the executive branch and meaningfully improve the delivery of digital services; and

(c) improve the management, acquisition, and oversight of Federal IT.

**Sec. 3. Definitions.** For purposes of this order:

(a) the term “covered agency” means an agency listed in 31 U.S.C. 901(b), other than the Department of Defense or any agency considered to be an “independent regulatory agency” as defined in 44 U.S.C. 3502(5);

(b) the term “information technology” has the meaning given that term in 40 U.S.C. 11101(6);

(c) the term “Chief Information Officer” or “CIO” means the individual within a covered agency as described in 40 U.S.C. 11315;

(d) the term “component Chief Information Officer” or “component CIO” means an individual in a covered agency, other than the CIO referred to in subsection (c) of this section, who has the title Chief Information Officer, or who functions in the capacity of a CIO, and has IT management authorities over a component of the agency similar to those the CIO has over the entire agency;

(e) the term “IT position” means a position within the job family standard for the Information Technology Management Series, GS–2210, as defined by the Office of Personnel Management (OPM) in the Handbook of Occupational Groups and Families and related guidance.

**Sec. 4. Emphasizing Chief Information Officer Duties and Responsibilities.** The head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) consistent with 44 U.S.C. 3506(a)(2), the CIO of the covered agency reports directly to the agency head, such that the CIO has direct access to the agency head regarding all programs that include IT;

(b) consistent with 40 U.S.C. 11315(b), and to promote the effective, efficient, and secure use of IT to accomplish the agency's mission, the CIO serves as the primary strategic advisor to the agency head concerning the use of IT;

(c) consistent with 40 U.S.C. 11319(b)(1)(A), the CIO has a significant role, including, as appropriate, as lead advisor, in all annual and multi-year planning, programming, budgeting, and execution decisions, as well as in all management, governance, and oversight processes related to IT; and

(d) consistent with 40 U.S.C. 11319(b)(2) and other applicable law, the CIO of the covered agency approves the appointment of any component CIO in that agency.

**Sec. 5. *Agency-wide IT Consolidation.*** Consistent with the purposes of Executive Order 13781 of March 13, 2017 (Comprehensive Plan for Reorganizing the Executive Branch), the head of each covered agency shall take all necessary and appropriate action to:

(a) eliminate unnecessary IT management functions;

(b) merge or reorganize agency IT functions to promote agency-wide consolidation of the agency's IT infrastructure, taking into account any recommendations of the relevant agency CIO; and

(c) increase use of industry best practices, such as the shared use of IT solutions within agencies and across the executive branch.

**Sec. 6. *Strengthening Cybersecurity.*** Consistent with the purposes of Executive Order 13800 of May 11, 2017 (Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure), the head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) the CIO, as the principal advisor to the agency head for the management of IT resources, works closely with an integrated team of senior executives with expertise in IT, security, budgeting, acquisition, law, privacy, and human resources to implement appropriate risk management measures; and

(b) the agency prioritizes procurement of shared IT services, including modern email and other cloud-based services, where possible and to the extent permitted by law.

**Sec. 7. *Knowledge and Skill Standards for IT Personnel.*** The head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) consistent with 40 U.S.C. 11315(c)(3), the CIO assesses and advises the agency head regarding knowledge and skill standards established for agency IT personnel;

(b) the established knowledge and skill standards are included in the performance standards and reflected in the performance evaluations of all component CIOs, and that the CIO is responsible for that portion of the evaluation; and

(c) all component CIOs apply those standards within their own components.

**Sec. 8. *Chief Information Officer Role on IT Governance Boards.*** Wherever appropriate and consistent with applicable law, the head of each covered agency shall ensure that the CIO shall be a member of any investment or related board of the agency with purview over IT, or any board responsible for setting agency-wide IT standards. The head of each covered agency shall also, as appropriate and consistent with applicable law, direct the CIO to chair any such board. To the extent any such board operates through member votes, the head of each covered agency shall also, as appropriate and consistent with applicable law, direct the CIO to fulfill the role of voting member.



**Sec. 9. Chief Information Officer Hiring Authorities.** The Director of OPM (Director) shall publish a proposed rule delegating to the head of each covered agency authority to determine whether there is a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates), or that a critical hiring need exists, for IT positions at the covered agency pursuant to 5 U.S.C. 3304(a)(3), under criteria established by OPM.

(a) Such proposed rule shall provide that, upon an affirmative determination by the head of a covered agency that there is a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates), or that a critical hiring need exists for IT positions, under the criteria established by OPM, the Director shall, within 30 days, grant that agency direct hiring authority for IT positions.

(b) Such proposed rule shall further provide that employees hired using this authority may not be transferred to positions that are not IT positions; that the employees shall initially be given term appointments not to exceed 4 years; and that the terms of such employees may be extended up to 4 additional years at the discretion of the hiring agency.

(c) The Director shall submit the proposed rule for publication within 30 days of the date of this order.

**Sec. 10. Guidance.** The Director of the Office of Management and Budget shall amend or replace relevant guidance, as appropriate, to agencies to reflect the requirements of this order.

**Sec. 11. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be Donald Trump, located in the upper right quadrant of the page.

THE WHITE HOUSE,  
*May 15, 2018.*

# Reader Aids

Federal Register

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Friday, May 18, 2018

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**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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