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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 ENERGY

10 CFR Parts 429 and 430

[EERE–2016–BT–TP–0029]

RIN 1904–AD71

Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notification of administrative stay.

SUMMARY: The Department of Energy (DOE) has postponed the effectiveness of certain provisions of a final rule, published in the **Federal Register** on January 5, 2017, that amends the test procedure and specific certification, compliance, and enforcement provisions for central air conditioners and heat pumps. Specifically, DOE postponed the effectiveness of two provisions of a recently issued rule that require outdoor unit models to be tested under the outdoor unit with no match if they meet either of the two following conditions: The outdoor unit is approved for use with a refrigerant that has a 95 °F midpoint saturation absolute pressure that is +/− 18 percent of the 95 °F saturation absolute pressure for HCFC–22; or the unit is shipped requiring the addition of more than two pounds of refrigerant to meet the charge required for testing under the rule and the factory charge is not equal to or greater than 70% of the outdoor unit internal volume times the liquid density of refrigerant at 95 °F.

DATES: As of July 3, 2017, the effectiveness of certain provisions of 10 CFR 429.16(a)(3)(i) was postponed under 5 U.S.C. 705.

FOR FURTHER INFORMATION CONTACT: Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585–0121. Phone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2017, DOE published a final rule (January 2017 final rule) amending the test procedure and certification, compliance, and enforcement provisions for central air conditioners and heat pumps (CAC/HP). 82 FR 1426. Among other changes, the January 2017 final rule added a paragraph at 10 CFR 429.16(a)(3)(i) that requires, among other things: (1) If any of the refrigerants approved for use with an outdoor unit model is HCFC–22 or has a 95 °F midpoint saturation absolute pressure that is +/− 18 percent of the 95 °F saturation absolute pressure for HCFC–22, or if there are no refrigerants designated as approved for use, a manufacturer to determine represented values (including SEER, EER, HSPF, SEER2, EER2, HSPF2, PW,OFF, cooling capacity, and heating capacity, as applicable) for, at a minimum, an outdoor unit with no match; and (2) if a model of outdoor unit is not charged with a specified refrigerant from the point of manufacture or if the unit is shipped requiring the addition of more than two pounds of refrigerant to meet the charge required for testing per section 2.2.5 of appendix M or appendix M1 (unless either (a) the factory charge is equal to or greater than 70% of the outdoor unit internal volume times the liquid density of refrigerant at 95 °F or (b) an A2L refrigerant is approved for use and listed in the certification report), a manufacturer to determine represented values (including SEER, EER, HSPF, SEER2, EER2, HSPF2, PW, OFF, cooling capacity, and heating capacity, as applicable) for, at a minimum, an outdoor unit with no match.

The original effective date of the January 2017 final rule was February 6, 2017. Subsequently, DOE delayed the effective date of the January 2017 final rule until March 21, 2017 (82 FR 8985), and then further delayed the effective date until July 5, 2017 (82 FR 14425; 82 FR 15457).

On March 3, 2017, Johnson Controls, Inc. (JCI) filed a petition for review of the January 2017 final rule in the United States Court of Appeals for the Seventh Circuit. JCI manufactures outdoor units with an approved refrigerant that has a 95 °F midpoint saturation absolute pressure that is +/− 18 percent of the 95 °F saturation absolute pressure for HCFC–22. These same models are also shipped requiring the addition of more than two pounds of refrigerant to meet the charge required for testing per section 2.2.5 of appendix M or appendix M1, and the factory charge is not equal to or greater than 70% of the outdoor unit internal volume times the liquid density of refrigerant at 95 °F. Thus, under either of the two provisions at 10 CFR 429.16(a)(3)(i), these models would need to be tested as outdoor units with no match under appendix M or M1.

On May 31, 2017, JCI requested that DOE grant it an administrative stay pending judicial review of two elements of the January 2017 final rule challenged in the Seventh Circuit case: The requirements that a manufacturer determine represented values (including SEER, EER, HSPF, SEER2, EER2, HSPF2, PW, OFF, cooling capacity, and heating capacity, as applicable) for, at a minimum, an outdoor unit with no match, when testing outdoor unit models that are either: (1) Approved for a refrigerant that has a 95 °F midpoint saturation absolute pressure that is +/− 18 percent of the 95 °F saturation absolute pressure for HCFC–22; or (2) shipped requiring the addition of more than two pounds of refrigerant to meet the charge required for testing per section 2.2.5 of appendix M or Appendix M1, and the factory charge is not equal to or greater than 70% of the outdoor unit internal volume times the liquid density of refrigerant at 95 °F. On June 6, 2017, JCI requested that DOE hold its stay request in abeyance, noting that DOE's June 2, 2017, grant of an 180-day extension of the date by which JCI must comply with the two provisions specified above obviated the need for an immediate grant of an administrative stay.

Administrative Stay and Effectiveness

Under the Administrative Procedure Act (5 U.S.C. 705), ''[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.'' The result of the issuance of a stay is to leave in place the status quo.

DOE has determined that, during the pendency of the lawsuit brought by JCI, it is in the interests of justice to postpone the effectiveness of the

provisions of the January 2017 final rule that require a manufacturer to determine represented values (including SEER, EER, HSPF, SEER2, EER2, HSPF2, PW, OFF, cooling capacity, and heating capacity, as applicable) for, at a minimum, an outdoor unit with no match, when testing outdoor unit models that are either: (1) Approved for a refrigerant that has a 95 °F midpoint saturation absolute pressure that is +/− 18 percent of the 95 °F saturation absolute pressure for HCFC–22; or (2) shipped requiring the addition of more than two pounds of refrigerant to meet the charge required for testing per section 2.2.5 of appendix M or appendix M1, and the factory charge is not equal to or greater than 70% of the outdoor unit internal volume times the liquid density of refrigerant at 95 °F. DOE has determined to postpone the effectivenes of these provisions based on JCI's submissions to DOE that raise concerns about significant potential impacts on JCI, and further to ensure all manufacturers of central air conditioners and heat pumps have the same relief granted to JCI.

Issued in Washington, DC, on July 3, 2017.

George Fibbe,

Deputy General Counsel for Litigation, Regulation and Enforcement.

[FR Doc. 2017–14473 Filed 7–12–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31139; Amdt. No. 3751]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 13, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 13, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and

Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on June 2, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 20 July 2017

Boca Raton, FL, Boca Raton, RNAV (GPS) Y RWY 23, Amdt 1A
Boca Raton, FL, Boca Raton, RNAV (RNP) Z RWY 23, Orig-A
Orlando, FL, Orlando Sanford Intl, ILS OR LOC RWY 27R, Amdt 4
Orlando, FL, Orlando Sanford Intl, RNAV (GPS) RWY 27R, Amdt 4
Poughkeepsie, NY, Hudson Valley Rgnl, RNAV (GPS) RWY 6, Orig-E
Logan, WV, Logan County, RNAV (GPS) RWY 6, Amdt 1
Logan, WV, Logan County, RNAV (GPS) RWY 24, Amdt 1

Effective 17 August 2017

Nondalton, AK, Nondalton, RNAV (GPS) RWY 2, Orig-B
Platinum, AK, Platinum, RNAV (GPS) RWY 14, Amdt 2
Platinum, AK, Platinum, Takeoff Minimums and Obstacle DP, Amdt 2
Wrangell, AK, Wrangell, LDA–C, Amdt 8A
Wrangell, AK, Wrangell, LDA–D, Amdt 7A
Wrangell, AK, Wrangell, LEVEL ISLAND THREE, Graphic DP
Montgomery, AL, Montgomery Rgnl (Dannelly Field), ILS OR LOC RWY 10, Amdt 24
Rogers, AR, Rogers Executive—Carter Field, ILS OR LOC RWY 20, Amdt 4
Rogers, AR, Rogers Executive—Carter Field, RNAV (GPS) RWY 2, Amdt 1
Phoenix, AZ, Phoenix Deer Valley, RNAV (GPS) RWY 7R, Amdt 1A
Columbia, CA, Columbia, FICHU TWO, Graphic DP
Columbia, CA, Columbia, RNAV (GPS) RWY 35, Orig-B
Columbia, CA, Columbia, Takeoff Minimums and Obstacle DP, Amdt 1
Los Angeles, CA, Los Angeles Intl, Takeoff Minimums and Obstacle DP, Amdt 14
South Lake Tahoe, CA, Lake Tahoe, LDA/DME 2 RWY 18, Amdt 1B, CANCELED
Wray, CO, Wray Muni, RNAV (GPS) RWY 17, Amdt 1B
Palatka, FL, Palatka Muni—Lt Kay Larkin Field, RNAV (GPS) RWY 9, Orig-B
Punta Gorda, FL, Punta Gorda, RNAV (GPS) RWY 22, Amdt 2
Blakely, GA, Early County, RNAV (GPS) RWY 5, Amdt 2A
Blakely, GA, Early County, RNAV (GPS) RWY 23, Amdt 2A
Butler, GA, Butler Muni, RNAV (GPS) RWY 18, Amdt 1A
Louisville, GA, Louisville Muni, RNAV (GPS) RWY 13, Orig
Louisville, GA, Louisville Muni, RNAV (GPS) RWY 31, Orig
Louisville, GA, Louisville Muni, Takeoff Minimums and Obstacle DP, Orig
Thomasville, GA, Thomasville Rgnl, RNAV (GPS) RWY 4, Orig
Tifton, GA, Henry Tift Myers, ILS OR LOC RWY 34, Amdt 2A
Tifton, GA, Henry Tift Myers, RNAV (GPS) RWY 16, Orig-A
Tifton, GA, Henry Tift Myers, RNAV (GPS) RWY 34, Amdt 1A
Tifton, GA, Henry Tift Myers, Takeoff Minimums and Obstacle DP, Amdt 6A
Valdosta, GA, Valdosta Rgnl, RNAV (GPS) RWY 17, Amdt 2A
Ames, IA, Ames Muni, ILS OR LOC RWY 1, Amdt 3
Fort Madison, IA, Fort Madison Muni, RNAV (GPS) RWY 17, Orig-B
Fort Madison, IA, Fort Madison Muni, RNAV (GPS) RWY 35, Orig-C
Peoria, IL, Mount Hawley Auxiliary, RNAV (GPS) RWY 18, Amdt 2
Indianapolis, IN, Indy South Greenwood, RNAV (GPS) RWY 1, Amdt 2
Kokomo, IN, Kokomo Muni, VOR RWY 32, Amdt 21
Marlette, MI, Marlette, RNAV (GPS) RWY 9, Amdt 1B
Marlette, MI, Marlette, RNAV (GPS) RWY 19, Orig-B
Marlette, MI, Marlette, RNAV (GPS) RWY 27, Amdt 1B
Ontonagon, MI, Ontonagon County—Schuster Field, RNAV (GPS) RWY 35, Orig
Ontonagon, MI, Ontonagon County—Schuster Field, RNAV (GPS)-A, Orig-A, CANCELED
Longville, MN, Longville Muni, NDB RWY 31, Amdt 1
Longville, MN, Longville Muni, RNAV (GPS) RWY 13, Orig
St Paul, MN, St Paul Downtown Holman Fld, ILS OR LOC RWY 14, Amdt 2
St Paul, MN, St Paul Downtown Holman Fld, ILS OR LOC RWY 32, Amdt 6
St Paul, MN, St Paul Downtown Holman Fld, NDB RWY 31, Amdt 9
St Paul, MN, St Paul Downtown Holman Fld, RNAV (GPS) RWY 14, Amdt 1B
St Paul, MN, St Paul Downtown Holman Fld, RNAV (GPS) RWY 32, Amdt 1
St Paul, MN, St Paul Downtown Holman Fld, Takeoff Minimums and Obstacle DP, Amdt 8A
Joplin, MO, Joplin Rgnl, ILS OR LOC/NDB RWY 13, Orig-C
Joplin, MO, Joplin Rgnl, LOC BC RWY 31, Amdt 21D
West Plains, MO, West Plains Muni, VOR RWY 36, Amdt 1, CANCELED
Columbus, MS, Columbus-Lowndes County, RNAV (GPS) RWY 18, Amdt 1
Columbus, MS, Columbus-Lowndes County, RNAV (GPS) RWY 36, Amdt 1
Columbus, MS, Columbus-Lowndes County, VOR–A, Amdt 14
Hattiesburg, MS, Hattiesburg-Laurel Rgnl, ILS OR LOC RWY 18, Amdt 7B
Pascagoula, MS, Trent Lott Intl, VOR–A, Amdt 1B, CANCELED
Roanoke Rapids, NC, Halifax-Northampton Rgnl, RNAV (GPS) RWY 2, Amdt 2
Roanoke Rapids, NC, Halifax-Northampton Rgnl, RNAV (GPS) RWY 20, Amdt 2
Roanoke Rapids, NC, Halifax-Northampton Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Roanoke Rapids, NC, Halifax-Northampton Rgnl, VOR RWY 2, Amdt 1
Salisbury, NC, Mid-Carolina Rgnl, ILS OR LOC RWY 20, Amdt 1B
Salisbury, NC, Mid-Carolina Rgnl, RNAV (GPS) RWY 2, Amdt 1B
Salisbury, NC, Mid-Carolina Rgnl, RNAV (GPS) RWY 20, Amdt 1B
Salisbury, NC, Mid-Carolina Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2A
Seward, NE, Seward Muni, NDB RWY 16, Orig, CANCELED
Seward, NE, Seward Muni, NDB RWY 34, Orig-A, CANCELED
Winnemucca, NV, Winnemucca Muni, RNAV (GPS) RWY 32, Orig-A
New York, NY, LaGuardia, COPTER RNAV (GPS) 250, Orig-B
New York, NY, Long Island Mac Arthur, RNAV (GPS) RWY 24, Amdt 3

Stormville, NY, Stormville, Takeoff Minimums and Obstacle DP, Orig, SUSPEND
Stormville, NY, Stormville, VOR OR GPS–A, Amdt 4A, SUSPEND
Cambridge, OH, Cambridge Muni, LOC/DME RWY 22, Amdt 1C, CANCELED
East Liverpool, OH, Columbia County, Takeoff Minimums and Obstacle DP, Amdt 2A
Millersburg, OH, Holmes County, VOR–A, Amdt 7, CANCELED
Ada, OK, Ada Rgnl, RNAV (GPS) RWY 18, Amdt 1
Ada, OK, Ada Rgnl, RNAV (GPS) RWY 36, Amdt 1
Ada, OK, Ada Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4
Ada, OK, Ada Rgnl, VOR RWY 18, Amdt 2
Burns Flat, OK, Clinton-Sherman, RNAV (GPS) RWY 17R, Amdt 1A
Burns Flat, OK, Clinton-Sherman, RNAV (GPS) RWY 35L, Amdt 1A
Burns Flat, OK, Clinton-Sherman, VOR RWY 35L, Amdt 12A
Lawton, OK, Lawton-Fort Sill Rgnl, RNAV (GPS) RWY 35, Amdt 1
Medford, OR, Rogue Valley Intl—Medford, RNAV (GPS) Y RWY 14, Amdt 1A
Kingstree, SC, Williamsburg Rgnl, RNAV (GPS) RWY 14, Orig
Kingstree, SC, Williamsburg Rgnl, RNAV (GPS) RWY 32, Amdt 1
Kingstree, SC, Williamsburg Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Lake City, SC, Lake City Muni CJ Evans Field, RNAV (GPS) RWY 19, Orig-A
Jasper, TN, Marion County-Brown Field, NDB RWY 4, Amdt 5A, CANCELED
Rogersville, TN, Hawkins County, GPS RWY 7, Orig-B, CANCELED
Rogersville, TN, Hawkins County, RNAV (GPS) RWY 7, Orig
Rogersville, TN, Hawkins County, RNAV (GPS) RWY 25, Orig
Dallas, TX, Dallas Love Field, Takeoff Minimums and Obstacle DP, Amdt 17
Lakeway, TX, Lakeway Airpark, RNAV (GPS) RWY 16, Amdt 1B
Nephi, UT, Nephi Muni, NEPHI TWO, Graphic DP
Renton, WA, Renton Muni, RNAV (GPS) Y RWY 16, Amdt 5
Renton, WA, Renton Muni, RNAV (GPS) Z RWY 16, Amdt 3
Mosinee, WI, Central Wisconsin, ILS OR LOC RWY 8, Amdt 14
Mosinee, WI, Central Wisconsin, ILS OR LOC RWY 35, Amdt 3
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 8, Amdt 1C
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 26, Amdt 1C
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 35, Amdt 2

[FR Doc. 2017–14519 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31141; Amdt. No. 3753]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 13, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 13, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff

Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on June 16, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 20 July 2017

Bridgeport, CT, Igor I Sikorsky Memorial, RNAV (GPS) RWY 29, Amdt 1A
Lakeland, FL, Lakeland Linder Rgnl, ILS OR LOC RWY 9, Orig-B
Lakeland, FL, Lakeland Linder Rgnl, RNAV (GPS) RWY 5, Orig-E
Lakeland, FL, Lakeland Linder Rgnl, RNAV (GPS) RWY 9, Amdt 2C
Lakeland, FL, Lakeland Linder Rgnl, RNAV (GPS) RWY 23, Orig-C
Lakeland, FL, Lakeland Linder Rgnl, RNAV (GPS) RWY 27, Amdt 2B
Lakeland, FL, Lakeland Linder Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1A
Lakeland, FL, Lakeland Linder Rgnl, VOR RWY 9, Amdt 4D
Lakeland, FL, Lakeland Linder Rgnl, VOR RWY 27, Amdt 7G

Effective 17 August 2017

Huntsville, AL, Huntsville Executive Airport Tom Sharp Jr Fld, ILS OR LOC RWY 18, Amdt 1B
Chico, CA, Chico Muni, RNAV (GPS) RWY 31R, Orig-B
Livermore, CA, Livermore Muni, ILS RWY 25R, Amdt 8
Livermore, CA, Livermore Muni, LOC RWY 25R, Orig
Colorado Springs, CO, City of Colorado Springs Muni, Takeoff Minimums and Obstacle DP, Amdt 12A
Orlando, FL, Orlando Sanford Intl, ILS OR LOC RWY 27R, Amdt 4
Orlando, FL, Orlando Sanford Intl, RNAV (GPS) RWY 27R, Amdt 4
Muscatine, IA, Muscatine Muni, VOR RWY 6, Orig-D, CANCELED
Lewiston, ID, Lewiston-Nez Perce County, RNAV (GPS) Y RWY 8, Amdt 2B
Lewiston, ID, Lewiston-Nez Perce County, RNAV (GPS) Y RWY 26, Orig-B
Lewiston, ID, Lewiston-Nez Perce County, RNAV (RNP) RWY 30, Orig-C
Lewiston, ID, Lewiston-Nez Perce County, RNAV (RNP) Z RWY 26, Orig-B
Lafayette, IN, Purdue University, ILS OR LOC RWY 10, Amdt 11B
Pikeville, KY, Pike County-Hatcher Field, ILS OR LOC RWY 27, Amdt 2
Pikeville, KY, Pike County-Hatcher Field, RNAV (GPS) RWY 9, Amdt 2
Pikeville, KY, Pike County-Hatcher Field, RNAV (GPS) RWY 27, Amdt 2
Worcester, MA, Worcester Rgnl, ILS OR LOC RWY 11, Amdt 24
Worcester, MA, Worcester Rgnl, RNAV (GPS) RWY 11, Amdt 2
Worcester, MA, Worcester Rgnl, RNAV (GPS) RWY 29, Amdt 2
Eastport, ME, Eastport Muni, RNAV (GPS) RWY 15, Amdt 1
Eastport, ME, Eastport Muni, RNAV (GPS) RWY 33, Amdt 1
Fosston, MN, Fosston Muni, RNAV (GPS) RWY 16, Orig-C
Fosston, MN, Fosston Muni, RNAV (GPS) RWY 34, Orig-C
Mora, MN, Mora Muni, RNAV (GPS) RWY 35, Orig-A
Park Rapids, MN, Park Rapids Muni-Konshok Field, RNAV (GPS) RWY 31, Orig-C
Sidney, MT, Sidney-Richland Rgnl, NDB RWY 19, Amdt 5
Sidney, MT, Sidney-Richland Rgnl, RNAV (GPS) RWY 1, Amdt 2
Sidney, MT, Sidney-Richland Rgnl, RNAV (GPS) RWY 19, Amdt 2
Sidney, MT, Sidney-Richland Rgnl, Takeoff Minimums and Obstacle DP, Amdt 6
Beaufort, NC, Michael J Smith Field, NDB RWY 14, Amdt 1A, CANCELED
Salisbury, NC, Mid-Carolina Rgnl, NDB RWY 20, Amdt 1B
Garrison, ND, Garrison Muni, RNAV (GPS) RWY 13, Amdt 1
Garrison, ND, Garrison Muni, RNAV (GPS) RWY 31, Amdt 1
Albuquerque, NM, Albuquerque Intl Sunport, RNAV (RNP) Z RWY 26, Amdt 2
Tonopah, NV, Tonopah, Takeoff Minimums and Obstacle DP, Amdt 2
Dansville, NY, Dansville Muni, RNAV (GPS) RWY 14, Orig-A
Dansville, NY, Dansville Muni, RNAV (GPS) RWY 18, Orig, CANCELED
Anderson, SC, Anderson Rgnl, RNAV (GPS) RWY 23, Amdt 1
Clark, SD, Clark County, RNAV (GPS) RWY 13, Orig
Clark, SD, Clark County, RNAV (GPS) RWY 31, Orig
Clark, SD, Clark County, Takeoff Minimums and Obstacle DP, Orig
Madison, SD, Madison Muni, RNAV (GPS) RWY 15, Orig-B
Rapid City, SD, Rapid City Rgnl, ILS OR LOC RWY 32, Amdt 21
Rapid City, SD, Rapid City Rgnl, RNAV (GPS) RWY 32, Amdt 2
Memphis, TN, Memphis Intl, Takeoff Minimums and Obstacle DP, Amdt 4A
Austin, TX, Austin Executive, Takeoff Minimums and Obstacle DP, Orig-A
Austin, TX, San Marcos Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2B
Georgetown, TX, Georgetown Muni, Takeoff Minimums and Obstacle DP, Amdt 1A
Lago Vista, TX, Lago Vista TX—Rusty Allen, Takeoff Minimums and Obstacle DP, Amdt 1A

Mason, TX, Mason County, RNAV (GPS) RWY 18, Orig-C
Mason, TX, Mason County, RNAV (GPS) RWY 36, Orig-C
Mason, TX, Mason County, Takeoff Minimums and Obstacle DP, Amdt 2
Mason, TX, Mason County, VOR–A, Amdt 4B
Taylor, TX, Taylor Muni, Takeoff Minimums and Obstacle DP, Amdt 1A
Cedar City, UT, Cedar City Rgnl, ILS OR LOC RWY 20, Amdt 4B
Cedar City, UT, Cedar City Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3A
Salt Lake City, UT, Salt Lake City Intl, Takeoff Minimums and Obstacle DP, Amdt 11A
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, LOC RWY 36, Amdt 1A
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, NDB RWY 28, Amdt 12A
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 28, Orig-A
Minocqua-Woodruff, WI, Lakeland/Noble F Lee Memorial Field, RNAV (GPS) RWY 36, Orig-A

[FR Doc. 2017–14521 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 4, 10, 18, 113, 122, 123, 141, 191, and 192

[CBP Dec. 17–06]

Electronic Information for Cargo Exported From the United States; Technical Amendments

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends U.S. Customs and Border Protection regulations regarding the requirements to provide data for certain exported cargo to conform to current requirements. Various CBP regulations regarding exported cargo refer to outdated regulations or requirements of the U.S. Census Bureau, including the requirement to submit a paper Shipper's Export Declaration (SED). The U.S. Census Bureau's Foreign Trade Regulations (FTR) have been amended to eliminate the SED and to require that the information that was previously provided on the paper SED be filed electronically through the Automated Export System. This rule amends the CBP regulations to incorporate the current requirements. The rule also makes related conforming changes as well as non-substantive editorial and nomenclature changes.

DATES: This final rule is effective on July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Robert C. Rawls, Branch Chief, Outbound Enforcement and Policy Branch, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs and Border Protection, (202) 344–2847.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

U.S. Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are up to date. As explained below, various provisions of the CBP regulations contain references to certain U.S. Census Bureau (Census Bureau) requirements and regulations which are out of date. CBP is updating the regulations so that they conform to current requirements.

In 2008, 2013, and 2016, the Census Bureau issued amendments to the Foreign Trade Regulations (FTR) codified at 15 CFR part 30 that require exporters to use the Automated Export System (AES) to file export commodity and transportation information, known as Electronic Export Information (EEI), directly with CBP and the Census Bureau.[1] The amendments concurrently eliminated the use of the Shipper's Export Declaration (SED), the paper form previously used by exporters to report export information.[2] The amendments also revised some terminology and clarified some requirements. Because various CBP regulations refer to AES as a voluntary program, and refer to the SED and other outdated provisions and terminology in the FTR, it is necessary to amend the CBP regulations so that they are consistent with current requirements.

It should be noted that the Department of Homeland Security (DHS), through CBP, collects certain export information under its own authority pursuant to section 343(a) of the Trade Act of 2002, Public Law 107–210, 116 Stat. 981 (August 6, 2002), as amended, which mandates that the Secretary of Homeland Security collect information pertaining to cargo before the cargo is either brought into or sent from the United States by any mode of commercial transportation (sea, air, rail or truck). *See* 19 U.S.C. 2071 note. The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security pursuant to those laws enforced and administered by CBP.[3] The advance reporting requirements pertaining to exported cargo are set forth in 19 CFR part 192. These part 192 regulations make various references to the SED and other outdated Census Bureau requirements.

II. Explanation of Amendments

CBP has determined that it is necessary to update parts 4, 10, 18, 113, 122, 123, 141, 191 and 192 of the CBP regulations (19 CFR parts 4, 10, 18, 113, 122, 123, 141, 191 and 192) to conform them to the Census Bureau's FTR. Accordingly, this rule amends the CBP regulations by incorporating current requirements for the filing of EEI in AES, deleting references to the SED, updating outdated terminology and by making other conforming changes. These changes are discussed in more detail below.

A. 19 CFR Part 4

Sections 4.61, 4.63, 4.75, 4.76, 4.81, 4.84 and 4.87 of the CBP regulations (19 CFR 4.61, 4.63, 4.75, 4.76, 4.81, 4.84 and 4.87) set forth various requirements pertaining to the exportation of cargo from the United States by vessel. These sections refer to the terms ''shipper's

[1] In 2002, Congress passed the Foreign Relations Authorization Act (the ''FRAA''), Public Law 107–228, 116 Stat. 1350 (September 30, 2002). Section 1404 of the FRAA mandates that the Census Bureau, with the concurrence of the Secretary of State and the Secretary of Treasury, publish regulations implementing the requirement to file export information through AES for all shipments where an SED was required. On June 2, 2008, the Census Bureau published a final rule in the **Federal Register** (73 FR 31548) (''the 2008 Census Bureau rule'') creating the FTR, which required export information for which an SED was previously required to be filed to be from then on filed through AES for most exports. That final rule did not require the use of AES to report export data for used self-propelled vehicles and temporary exports. On March 14, 2013, the Census Bureau published a final rule in the **Federal Register** (78 FR 16366) (''the 2013 Census Bureau rule'') that expanded the requirement for exporters to use AES to include shipments of used self-propelled vehicles and temporary exports. On November 13, 2013, the Census Bureau published a notice in the **Federal Register** (78 FR 67928) delaying the effective date of this final rule until April 5, 2014. On April 19, 2017, the Census Bureau published a final rule in the **Federal Register** (82 FR 18383) amending the FTR to reflect new export reporting requirements, which, among other things, redesignated Appendix D as Appendix B.

[2] On June 29, 2008, CBP published a general notice in the **Federal Register** (73 FR 32466) to inform the public that CBP would enforce compliance with the regulations pertaining to the mandatory, pre-departure electronic filing of export information through AES starting on September 30, 2008.

[3] On December 5, 2003, CBP published a final rule in the **Federal Register** (68 FR 68140) that amended the CBP regulations to require the submission of electronic information pertaining to cargo before the arrival or departure of that cargo from the United States by any mode of commercial transportation pursuant to section 343(a) of the Trade Act of 2002, as amended by the Maritime Security Act (19 U.S.C. 2071 note). *See* 19 CFR 4.7, 4.7a (vessel); 122.48a (air); 123.91 (rail); 123.92 (truck); 192.14 (exported cargo).

export declarations'', ''export declarations'', ''paper SEDs'', and ''cargo information''. Pursuant to the Census Bureau's FTR, SEDs are no longer accepted and exporters must file their export information as EEI through AES. Accordingly, CBP is replacing references to these terms with ''Electronic Export Information (EEI)'' or ''EEI'', as appropriate.

Under the FTR, when an export transaction is exempt or excluded from the requirement to file EEI, or when the EEI has not yet been filed in AES, the exporter must report to CBP the EEI exemption or exclusion legend that indicates the basis for not filing EEI, or must report the EEI filing citation (known as the ''proof of filing citation'' in the Census Bureau's FTR) to indicate that the EEI has been accepted or the post departure filing citation to indicate that EEI will be filed in AES. Therefore, where appropriate, CBP is replacing the references to the ''shipper's export declarations'' with ''EEI filing citations, exclusions, and/or exemption legends''.

Section 4.63 concerns the outward cargo declaration for vessels. Paragraph (b) provides that if EEI is not required for a shipment, a notation must be made on the outward cargo declaration describing the basis for the exemption. The Census Bureau's FTR, however, requires notations for both exemptions and exclusions. *See* 15 CFR 30.7, 30.45. Therefore, CBP is making a conforming change to § 4.63 to also require a notation describing the basis for an exclusion from filing EEI, if applicable. In addition, the last sentence of paragraph (b) provides that shipments that are exempt from the requirement to file EEI based on value or destination are not required to make reference to the applicable section in the Census Bureau's regulations on its outward cargo declaration. The Census Bureau's FTR, however, requires an annotation of the appropriate exemption legend on such documents, regardless of the type of exemption. *See* 15 CFR 30.45. Accordingly, CBP is making a conforming revision to § 4.63 by removing the last sentence of paragraph (b).

Section 4.76 sets forth procedures and responsibilities of carriers filing outbound vessel manifest information via the AES. As a result of the elimination of the SED and the new requirement to file EEI electronically, certain procedural language in § 4.76 must be updated. In paragraph (b), the second to last sentence provides that where paper SEDs have been submitted by exporters prior to departure, participant carriers will be responsible for submitting those SEDs to Customs within four (4) business days after the departure of the vessel from each port, unless a different time required is specified by § 4.75 or § 4.84. Because EEI has replaced paper SEDs, exporters are now required to submit to CBP a vessel manifest annotated with proof of EEI filing (as demonstrated by an Internal Transaction Number (ITN) issued by AES upon filing) rather than a paper SED. Therefore, CBP is revising this sentence to read: When the exporter submits Electronic Export Information (EEI) prior to departure, carriers will be responsible for annotating the manifest with the Internal Transaction Number (ITN) without change and submitting the manifest to CBP within four (4) business days after the departure of the vessel from each port unless a different time requirement is specified in § 4.75 or § 4.84. Additionally, CBP is removing the last sentence of § 4.76(b) regarding an alternative procedure for the filing of the paper SED. This procedure is no longer applicable in an environment where paper SEDs are not accepted.

CBP is also amending various sections throughout part 4 to update outdated terminology. These sections are amended by replacing outdated references to ''Customs'' or ''Customs Service'' with ''CBP''. These amendments are consistent with the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) in 2003 and the subsequent renaming of the agency as U.S. Customs and Border Protection (CBP) by DHS on March 31, 2007. *See* 72 FR 20131 (April 23, 2007); 75 FR 12445 (March 16, 2010); *see also* U.S. Customs and Border Protection Authorization Act, Public Law 114–125, 130 Stat. 199 (19 U.S.C. 4301 note), enacted February 24, 2016.

CBP is also updating § 4.76(b) which refers to the ''AES Trade Interface Requirements (AESTIR) handbook''. The AESTIR handbook is no longer published by CBP. The performance requirements and operational standards required to file EEI are collectively referred to as the AES Trade Interface Requirements and is available on CBP's Web site. Therefore, CBP is removing the word ''handbook''. Also in § 4.76(b), CBP is updating CBP's Web site address.

CBP is amending various sections throughout part 4 that refer to the ''Census Regulations'', ''Bureau of Census Regulations'', ''regulations of the Bureau of the Census'', or ''Bureau of Trade Census Foreign Trade Statistics (FTSR)''. The 2008 Census Bureau rule mandating the use of AES for all shipments requiring an SED also renamed the regulations under title 15 of the CFR, part 30. They are now referred to as the ''Foreign Trade Regulations (FTR)''. Accordingly, CBP is replacing references to ''Census Regulations'', ''Bureau of Census Regulations'', ''regulations of the Bureau of the Census'', or ''Bureau of Trade Census Foreign Trade Statistics (FTSR)'' with ''Census Bureau's Foreign Trade Regulations''.

CBP is amending various sections in part 4 to correct certain outdated citations to the United States Code (U.S.C.) and the CFR. Section 4.61(c) is amended to correct ''46 U.S.C. App. 97'' to ''46 U.S.C. 60106'', ''46 U.S.C. App. 98'' to ''46 U.S.C. 60109'', and ''Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100)'' to ''Payment of all legal fees that have accrued on the vessel (46 U.S.C. 60107)''. Section 4.75(a) is amended to correct ''46 U.S.C. 91'' to ''46 U.S.C. 60105.''[4] Section 4.61(e) is amended to correct a typographical error. Specifically, the citation in ''22 U.S.C. 454a'' is changed to ''22 U.S.C. 454(a)''. Sections 4.63, 4.75 and 4.76 contain outdated references to 15 CFR part 30 as a result of the Census Bureau's reorganization of the FTR and are amended to cite to the correct provisions in 15 CFR part 30.

CBP is also making certain minor changes in part 4 for clarity and for consistency, including replacing the references to ''Form 1302–A'' with ''Form 1302A'' for consistency with CBP's current usage on its forms and replacing the term ''port'' with ''port of lading''. ''Port of lading'' is the nomenclature used for the sea port where the cargo is loaded on a vessel. Using this term rather than simply ''port'' clarifies that these regulations are referring to the ''port of lading'' rather than the ''port of discharge,'' where the cargo would be unloaded. For stylistic reasons, CBP is also replacing references to ''shall'' with ''must'' or ''will'', as appropriate.

B. 19 CFR Part 10

Section 10.41b of the CBP regulations (19 CFR 10.41b) concerns the requirements for clearance of serially numbered substantial holders or outer containers. Paragraph (g)(2) provides that nothing in the procedure described by § 10.41b will be deemed to affect the requirements of the Department of Commerce on exportation with respect to the filing of '' 'Shipper's Export

[4] Section 9 of the Merchant Marine Laws Codification, 109 Pub. L. 304, 120 Stat. 1485 (Oct. 6, 2006) redesignated these sections. The revisions incorporate the redesignations.

Declaration,' Form 7525V''. CBP is replacing this reference with ''Electronic Export Information (EEI)'' to conform to the revised FTR.

C. 19 CFR Part 18

Sections 18.42 and 18.43 of the CBP regulations (19 CFR 18.42 and 18.43) set forth exportation requirements for merchandise exported under cover of a TIR (Transport International Routier) carnet. Section 18.42 covers the requirements for direct exportation and section 18.43 covers the requirements for indirect exportation. In these sections, CBP is replacing references to ''export declarations'' with ''Electronic Export Information (EEI)'' to conform to the revised FTR. CBP is also replacing references to ''Bureau of the Census'' with ''Census Bureau'' for consistency with other CBP regulations. For stylistic reasons, CBP is also replacing references to ''shall'' with ''must'' or ''will'', as appropriate.

D. 19 CFR Part 113

Section 113.64 of the CBP regulations (19 CFR 113.64) sets forth international carrier bond conditions. Paragraph (i) relates to the agreement by carriers to deliver export documents to CBP and provides for the payment of liquidated damages if the agreement is not adhered to. The specified liquidated damage amounts reflect the amounts in the former Census Bureau regulation, § 30.24(a), later redesignated § 30.47(b). These amounts were increased by the 2008 Census Bureau rule. CBP is changing the specified liquidated damages amounts to conform to the Census Bureau's FTR.

E. 19 CFR Part 122

Sections 122.71, 122.72, 122.73, 122.74, 122.75, 122.76, and 122.79 of the CBP regulations (19 CFR 122.71, 122.72, 122.73, 122.74, 122.75, 122.76, and 122.79) set forth departure clearance requirements for aircraft, as well as electronic manifest requirements for passengers, crew members, and non-crew members onboard commercial aircraft departing from the United States. Section 122.143 of the CBP regulations (19 CFR 122.143) concerns flights from the U.S. to the U.S. Virgin Islands. In these sections, CBP is replacing references to ''shipper's export declarations'' or variations thereof with ''Electronic Export Information (EEI)'' or ''EEI'', as appropriate. In certain cases, however, CBP is replacing the references to the ''shipper's export declarations'' or variations thereof with ''Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends'' or variations thereof, when the context of the reference indicates that the exporter may file with CBP the EEI exemption or exclusion legend when an export transaction is exempt or excluded from the requirement or when EEI has not yet been filed in AES.

Section 122.74 sets forth the conditions under which an aircraft bound for a foreign location may receive permission by CBP to depart before a complete manifest or all required EEI have been filed. In addition to the revisions described in the paragraph above, CBP is amending this section to eliminate the hanging text following paragraph (b)(2). CBP is revising paragraph (b) to move the hanging text to the introductory paragraph of paragraph (b) to improve clarity.

Section 122.75 sets forth the requirements for a complete air cargo manifest. Paragraph (a)(2) specifies the procedures applicable to direct departures of shipments requiring a shipper's export declaration. CBP is amending this paragraph so that it conforms to the Census Bureau's FTR requirements. Specifically, CBP is revising the language in paragraph (a)(2) to allow the ''EEI filing citation'' to be listed on the air cargo manifest in the column for air waybill numbers instead of ''the number of each declaration''. CBP is also revising paragraph (a)(2) to require the statement ''Electronic Information Annotated'' to appear on the manifest instead of ''Cargo as per Export Declarations Attached''.

CBP is also making other non-substantive changes to sections in part 122. In various sections throughout part 122, CBP is replacing outdated references to ''Customs'' with ''CBP''. In § 122.143(b), CBP is replacing a reference to ''Bureau of the Census'' with ''Census Bureau'' for consistency and a reference to ''Bureau of the Census regulations'' with ''Census Bureau's Foreign Trade Regulations'' or variations thereof to conform with the revised Census Bureau's FTR. In § 122.143(b)(2), CBP is updating an outdated citation to the FTR. CBP is also making certain minor changes in part 122 for clarity and/or for consistency, including replacing references to ''U.S.'' to ''United States'' when not used as a modifier to conform to the U.S. Government Printing Office's Style Manual. For stylistic reasons, CBP is also replacing references to ''shall'' with ''must'' or ''will'', as appropriate.

F. 19 CFR Part 123

Section 123.28 of the CBP regulations (19 CFR 123.28) concerns merchandise remaining in or exported to Canada or Mexico. In paragraph (a), CBP is replacing an outdated reference to ''U.S. Customs'' with ''CBP''. In paragraph (b), CBP is replacing a reference to ''shipper's export declaration'' with ''Electronic Export Information (EEI) filing citation, exclusions, and/or exemption legends'' to conform to the revised FTR. For stylistic reasons, CBP is also replacing references to ''shall'' with ''must'' or ''will'', as appropriate.

G. 19 CFR Part 141

Section 141.43 of the CBP regulations (19 CFR 141.43) concerns delegation to subagents. CBP is revising the phrase ''executing shippers' export declarations'' to read ''filing Electronic Export Information (EEI)'' to conform to the revised FTR.

H. 19 CFR Part 191

Section 191.51 of the CBP regulations (19 CFR 191.51) pertains to the completion of drawback claims. In paragraph (c)(3), CBP is replacing references to ''Shipper's Export Declaration(s) (SEDs)'' and ''SED'' with ''Electronic Export Information (EEI)'' and ''EEI'', respectively, to conform to the revised FTR. For stylistic reasons, CBP is also replacing references to ''shall'' with ''must'' or ''will'', as appropriate. CBP is also making a few editorial changes.

I. 19 CFR Part 192

Sections 192.0, 192.11, 192.12, 192.13, and 192.14 of the CBP regulations (19 CFR 192.0, 192.11, 192.12, 192.13, and 192.14) concern export control, including the filing of export information through AES.

Section 192.0 sets forth the scope of the regulations in part 192. CBP is amending this section to replace outdated references to ''Customs'' with ''CBP''. CBP is also revising an outdated citation to the ''Census Regulations at part 30, subpart E (15 CFR part 30, subpart E)'' to read ''Foreign Trade Regulations (FTR) of the Census Bureau, U.S. Department of Commerce, at part 30, subpart A (15 CFR part 30, subpart A)''.

Section 192.11 sets forth a description of AES. CBP is revising this section to conform to the definition of AES contained in the revised FTR, codified at 15 CFR 30.1(c). The changes generally reflect that AES is no longer a voluntary program, and that EEI must be filed through AES. CBP is also updating the citation to the Census Bureau regulations so that it references the proper section in the FTR that describes the procedures for obtaining certification as an AES filer and for applying for authorization to file on a post-departure basis.

Section 192.12 sets forth the criteria for the denial of applications requesting AES post-departure (Option 4) filing status and appeal procedures and § 192.13 sets forth the reasons why CBP may revoke a participant's AES post-departure filing and the revocation and appeal procedures. CBP is currently working on substantive revisions to these sections (which will include the appropriate technical amendments) and is therefore not amending these sections at this time.

Section 192.14 sets forth the procedures for filing EEI required in advance of departure. CBP is making revisions to this section to conform to the electronic filing requirements of EEI contained in the revised FTR. Throughout § 192.14, CBP is adding references to the ''authorized filing agent of the Foreign Principal Party in Interest (FPPI)'' (or ''FPPI's authorized filing agent'') where appropriate to clarify that this party, in addition to the U.S. Principal Party in Interest (USPPI) or its authorized agent, is authorized to file any required EEI under 15 CFR 30.2. CBP is also replacing all references to ''cargo information'' or variations thereof with ''Electronic Export Information (EEI)'' or ''EEI'', as appropriate.

In the heading for § 192.14(b), CBP is replacing ''Presentation of data'' with ''Transmission of data'' to reflect the electronic submission of export information. In paragraph (b)(1), regarding the time for transmission of the data, CBP is updating the heading and contents to conform to the FTR. The heading is changed from ''Time for presenting data'' to ''Time for transmission of EEI'' and the paragraph now conforms to the requirements of the Census Bureau's FTR, specifying that the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must ''have received the AES Internal Transaction Number (ITN)'' for outbound cargo no later than the time specified in the subsequent paragraphs. In paragraphs (b)(1)(i) through (b)(1)(iv), which specify the relevant time frames for the USPPI or the authorized agent to transmit the data for vessel, air, truck and rail cargo, respectively, CBP is rewording these provisions to conform to the FTR by requiring the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent to ''provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier'' no later than the time specified in that paragraph. In new paragraph (b)(1)(v), CBP is providing the applicable time frame for the transmission of EEI for shipments of used self-propelled vehicles to conform with § 30.4(b)(5) of the Census Bureau's FTR (15 CFR 30.4). Finally, in new paragraph (b)(1)(vi), CBP is providing the public with a reference to the applicable sections of the Census Bureau's FTR that provide time frames for the transmission of EEI for cargo shipped by pipeline.

In paragraph (b)(2) of § 192.14, CBP is making certain revisions for clarity and to remove outdated language. Among other things, CBP is removing the sentence that references ''[p]aragraph (e)'' because paragraph (e) of § 192.14 was removed in a prior amendment to the regulation. In paragraph (b)(3), CBP is renaming the heading ''System verification of data acceptance'' to ''System verification of data acceptance or rejection'' to better describe the content of the paragraph, replacing certain outdated language, and revising the description of the ITN.

In paragraph (c) of § 192.14, CBP is changing the heading ''Information required'' to ''EEI required'' to clarify that all the information listed in paragraph (c) is required EEI.

In paragraph (c)(1) of § 192.14, CBP is changing the heading ''Currently collected commodity data'' to ''Commodity data'' to be more concise. CBP is removing the first two sentences of this paragraph because the reference to the SED is outdated and these sentences are redundant and unnecessary. CBP is replacing the phrase ''export cargo data elements'' with ''commodity data elements'' for consistency with the heading. CBP is also updating citations to the revised FTR.

In paragraph (c)(2) of § 192.14, under the heading ''Transportation data'', CBP is revising outdated language to clarify that these data elements must be reported electronically through the approved system and can be found in § 30.6 of the Census Bureau's FTR.

In paragraph (c)(3) of § 192.14, CBP is replacing the phrase ''outbound carrier'' with ''exporting carrier'' for clarity. CBP is also revising the sentence requiring the exporter to furnish proof to the exporting carrier of an ''electronic filing citation (the ITN), low-risk exporter citation (currently, the Option 4 filing citation), or exemption statement'' to read ''EEI filing citation (the ITN), post-departure citation, AES downtime filing citation (when allowed), exclusion, and/or exemption legends (see paragraph (d) of this section)''. This revision is necessary to include a greater range of EEI filing citation, exclusion and/or exemption legends that may be furnished to the exporting carrier and that are acceptable to CBP under Appendix B to the Census Bureau's FTR (15 CFR part 30, Appendix B). The last sentence of paragraph (c)(3) is revised similarly to include the citations and legends referenced above and also to update the reference to the revised FTR.

In paragraphs (c)(4), (c)(5) and (d) of § 192.14, CBP is revising certain language and terminology for consistency and clarity. Among other changes, CBP is replacing the phrase ''exemption statement'' with ''exemption legend''; ''Bureau of Census'' with ''Census Bureau''; and ''departed'' with ''been exported'' in reference to high risk cargo that has been transported from the United States. CBP also added relevant citations to the sections in the Census Bureau's FTR providing exemptions from reporting requirements for export cargo.

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), CBP has determined for good cause that it would be unnecessary and contrary to the public interest to delay publication of this rule in final form pending an opportunity for public comment because the technical amendments set forth in this document merely conform the CBP regulations to existing law and regulations. In addition, pursuant to 5 U.S.C. 553(d)(3), CBP has determined that there is good cause for this final rule to become effective immediately upon publication for the same reasons.

B. Executive Orders 12866, 13563, and 13771

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

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017).

This final rule is a technical amendment and as previously discussed, it amends outdated CBP regulations to incorporate the current requirements. The final rule also makes related conforming changes as well as non-substantive editorial and nomenclature changes. CBP does not believe this rule imposes additional costs on industry or government.

C. Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

IV. Signing Authority

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects

19 CFR Part 4

Customs duties and inspection, Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 10

Bonds, Caribbean Basin initiative, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 18

Common carriers, Customs duties and inspection, Exports, Freight, Penalties, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 141

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 191

Alcohol and alcoholic beverages, Claims, Customs duties and inspection, Exports, Foreign trade zones, Guantanamo Bay Naval Station, Cuba, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 192

Aircraft, Exports, Motor vehicles, Penalties, Reporting and recordkeeping requirements, Vessels.

Amendments to the CBP Regulations

For the reasons set forth above, parts 4, 10, 18, 113, 122, 123, 141, 191, and 192 of the CBP regulations (19 CFR parts 4, 10, 18, 113, 122, 123, 141, 191, and 192) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for part 4 and the specific authority citation for §§ 4.75 and 4.84 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.75 also issued under 46 U.S.C. 60105;

* * * * *

Section 4.84 also issued under 46 U.S.C. 12118;

* * * * *

§ 4.61 [Amended]

■ 2. Amend § 4.61 as follows:

■ a. In paragraph (a), remove all references to ''Customs'' and add in their place ''CBP''.

■ b. In paragraph (b), remove all references to ''Customs'' and add in their place ''CBP''.

■ c. In paragraph (c)(2), remove the words ''shippers export declarations'' and add in their place ''Electronic Export Information (EEI)''.

■ d. In paragraph (c)(6), remove the citation ''46 U.S.C. App. 97'' and add in its place ''46 U.S.C. 60106''.

■ e. In paragraph (c)(12), remove the citation ''46 U.S.C. App. 98'' and add in its place ''46 U.S.C. 60109''.

■ f. In paragraph (c)(18), remove the words ''Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100)'' and add in their place ''Payment of all legal fees that have accrued on the vessel (46 U.S.C. 60107)''.

■ g. In paragraph (e), remove ''22 U.S.C. 454a'' and add in its place ''22 U.S.C. 454(a)''.

■ 3. Amend § 4.63 as follows:

■ a. The section heading is revised.

■ b. In paragraph (a) introductory text, remove the word ''Customs'' and add in its place ''CBP''; and remove the word ''shall'' and add in its place ''will''.

■ c. In paragraph (a)(1), remove all references to ''Customs'' and add in their place ''CBP''; and remove the words ''export declarations'' and add in their place ''EEI''; and remove the reference to ''1302–A'' and add in its place ''1302A''.

■ d. Revise paragraph (b).

■ e. In paragraph (c) introductory text, remove the word ''shall'' and add in its place ''must''; remove all references to ''Customs'' and add in their place ''CBP''; and remove all references to ''1302–A'' and add in their place ''1302A''.

■ f. In paragraph (d), remove all references to ''Customs'' and add in their place ''CBP''; and remove all references to ''1302–A'' and add in their place ''1302A''.

■ g. In paragraph (e), remove the first reference to ''Customs'' and add in its place ''CBP''; remove the reference to ''1302–A'' and add in its place ''1302A''; remove the word ''shall'' and add in its place ''must''; and remove the second reference to ''Customs'' and add in its place ''customs''.

■ h. In paragraph (f), remove all references to ''Customs'' and add in their place ''CBP''; remove the word ''shall'' and add in its place ''will''; and remove the reference to ''1302–A'' and add in its place ''1302A''.

The revisions read as follows:

§ 4.63 Outward cargo declaration; Electronic Export Information (EEI).

* * * * *

(b) Except as hereafter stated, the Internal Transaction Number (ITN) of the Electronic Export Information (EEI) covering each shipment for which EEI is required must be shown on the Cargo Declaration Outward With Commercial Forms, CBP Form 1302A, in the

marginal column headed ''B/L No.'' If EEI is not required for a shipment, a notation must be made on the Cargo Declaration Outward With Commercial Forms (CBP Form 1302A) describing the basis for the exemption or exclusion using the reference number found in the Census Bureau's Foreign Trade Regulations (see 15 CFR part 30, Appendix B) where the particular exemption or exclusion is provided.

* * * * *

■ 4. Amend § 4.75 as follows:

■ a. The section heading, paragraphs (a) and (b) are revised.

■ b. In paragraph (c), revise the introductory text preceding the list of countries.

The revisions read as follows:

§ 4.75 Incomplete manifest; incomplete or missing Electronic Export Information (EEI); bond.

(a) *Pro forma manifest.* Except as provided for in § 4.75(c), if a master desiring to clear his vessel for a foreign port does not have available for filing with the CBP port director a complete Cargo Declaration Outward with Commercial Forms, CBP Form 1302A (see § 4.63) in accordance with 46 U.S.C. 60105, or all required EEI filing citations, exclusions, and/or exemption legends (see 15 CFR 30.47), the CBP port director may accept in lieu thereof an incomplete manifest (referred to as a pro forma manifest) on the Vessel Entrance or Clearance Statement, CBP Form 1300, if there is on file in his office a bond on CBP Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, executed by the vessel owner or other person as attorney in fact of the vessel owner. The ''Incomplete Manifest for Export'' box in item 17 of the Vessel Entrance or Clearance Statement form must be checked.

(b) *Time in which to file complete manifest and EEI.* Not later than the fourth business day after clearance from each port of lading in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, must submit to the director of each port a complete Cargo Declaration Outward with Commercial Forms, CBP Form 1302A, in accordance with § 4.63, of the cargo laden at such port together with all required EEI filing citations, exclusions, and/or exemption legends for such cargo and a Vessel Entrance or Clearance Statement, CBP Form 1300. The statutory grace period of four (4) days for filing the complete manifest and missing EEI begins to run on the first day (exclusive of any day on which the U.S. port of lading is not open for marine business) following the date on which clearance is granted.

(c) *Countries for which vessels may not be cleared until complete manifests and EEI are filed.* To aid CBP in the enforcement of export laws and regulations, no vessel will be cleared for any port in the following countries until a complete outward foreign manifest and all required EEI filing citations, exclusions, and/or exemption legends have been filed with the port director:

* * * * *

■ 5. Amend § 4.76 as follows:

■ a. In paragraph (a), remove the citation ''15 CFR 30.60'' and add in its place ''15 CFR 30.5''; and remove the words ''Census Regulations'' and add in their place ''Census Bureau's Foreign Trade Regulations''.

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

§ 4.76 Procedures and responsibilities of carriers filing outbound vessel manifest information via the AES.

* * * * *

(b) *Responsibilities.* The performance requirements and operational standards and procedures for electronic submission of outbound vessel manifest information are detailed in the AES Trade Interface Requirements (AESTIR) available on the CBP Web site, *http://www.cbp.gov.* Carriers and their agents are responsible for reporting accurate and timely information and for responding to all notifications concerning the status of their transmissions and the detention and release of freight in accordance with the procedures set forth in the AESTIR. CBP will send messages to participant carriers regarding the accuracy of their transmissions. Carriers and their agents are required to comply with the recordkeeping requirements contained at § 30.10 of the Census Bureau's Foreign Trade Regulations (15 CFR 30.10) and any other applicable recordkeeping requirements. When the exporter submits Electronic Export Information (EEI) prior to departure, carriers will be responsible for annotating the manifest with the Internal Transaction Number (ITN) without change and submitting the manifest to CBP within four (4) business days after the departure of the vessel from each port unless a different time requirement is specified in § 4.75 or § 4.84.

* * * * *

§ 4.81 [Amended]

■ 6. Amend paragraph (g)(2) of § 4.81 by removing all references to ''Customs'' and adding in their place ''CBP''; and removing the words ''shipper's export declarations'' and adding in their place ''Electronic Export Information (EEI)''.

§ 4.84 [Amended]

■ 7. Amend § 4.84 as follows:

■ a. In paragraph (a), remove the references to ''shall'' and add in their place ''will''; and remove the words ''shipper's export declarations'' and add in their place ''the filing of Electronic Export Information (EEI)''.

■ b. In paragraph (c)(1):

■ i. Remove all references to ''shall'' and add in their place ''will'';

■ ii. Remove the words ''regulations of the Bureau of the Census'' and add in their place ''the Census Bureau's Foreign Trade Regulations'';

■ iii. Remove the words ''Shipper's Export Declarations'' and add in their place ''EEI'';

■ iv. Remove the citation ''15 CFR 30.24'' and add in its place ''15 CFR 30.47'';

■ v. Remove all references to ''Customs'' and add in their place ''CBP''; and

■ vi. Remove all references to ''export declarations'' and add in their place ''EEI''.

■ c. In paragraph (c)(2):

■ i. Remove the references to ''shall'' in the first and second sentences and add in their place ''must''; and remove the reference to ''shall'' in the third sentence and add in its place ''will'';

■ ii. Remove the words ''regulations of the Bureau of the Census'' and add in their place ''the Census Bureau's Foreign Trade Regulations'';

■ iii. Remove all references to ''Shipper's Export Declarations'' and add in their place ''EEI'';

■ iv. Remove all references to ''Customs'' and add in their place ''CBP'';

■ v. Remove the citation to ''15 CFR 30.24'' and add in its place ''15 CFR 30.47''; and

■ vi. Remove the words ''export declarations'' and add in their place ''EEI''.

■ d. In paragraph (d):

■ i. Remove the first and second references to ''shall'' in the first sentence and add in their place ''must'';

■ ii. Remove the third reference to ''shall'' in the first sentence and add in its place ''will'';

■ iii. Remove the first reference to ''shall'' in the second sentence and add in its place ''must''; and remove the second reference to ''shall'' in the second sentence and add in its place ''will''; and

■ iv. Remove the word ''Customs'' and add in its place ''CBP''.

§ 4.87 [Amended]

■ 8. Amend § 4.87 as follows:

■ a. In paragraph (b), remove all references to ''Customs'' and add in their place ''CBP''; and remove the reference to ''1302–A'' and add in its place ''1302A''.
■ b. In paragraph (c), remove all references to ''Customs'' and add in their place ''CBP''.
■ c. In paragraph (d), remove all references to ''Customs'' and add in their place ''CBP''.
■ d. In paragraph (f):
■ i. Remove all references to ''Customs'' and add in their place ''CBP'';
■ ii. Remove the reference to ''1302–A'' and add in its place ''1302A''; and
■ iii. Remove the words ''shipper's export declarations'' and add in their place ''Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends''.
■ e. In paragraph (g):
■ i. Remove the word ''Customs'' and add in its place ''CBP'';
■ ii. Remove the reference ''1302–A'' and add in its place ''1302A''; and
■ iii. Remove the words ''export declarations'' and add in their place ''EEI''.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 9. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

§ 10.41b [Amended]

■ 10. Amend paragraph (g)(2) of § 10.41b by removing the words ''Shipper's Export Declaration,'' ''Form 7525–V'' and adding in their place ''Electronic Export Information (EEI)''.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624.

* * * * *

§ 18.42 [Amended]

■ 12. Amend § 18.42 as follows:
■ i. Remove the words ''export declarations'' and add in their place ''Electronic Export Information (EEI)'';
■ ii. Remove the words ''Bureau of the Census'' and add in their place ''Census Bureau'';
■ iii. Remove all references to ''shall'' in the first and second sentence and add in their place ''must''; and
■ iv. Remove all references to ''shall'' in the third sentence through the remainder of the paragraph and add in their place ''will''.

§ 18.43 [Amended]

■ 13. Amend paragraph (a) of § 18.43 by removing the words ''export declarations'' and adding in their place ''Electronic Export Information (EEI)''; removing the word ''shall'' and adding in its place ''must''; and removing the words ''Bureau of the Census'' and adding in their place ''Census Bureau''.

PART 113—CBP BONDS

■ 14. The general authority citation for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.64 [Amended]

■ 15. Amend paragraph (i) of § 113.64 by removing the words ''$50 per day for the first 3 days, and $100 per day thereafter, up to $1,000 in total'' and adding in their place ''$1,100 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation''.

PART 122—AIR COMMERCE REGULATIONS

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

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

§ 122.71 [Amended]

■ 17. Amend § 122.71 as follows:
■ a. In paragraph (a)(1)(ii), remove the words ''Shipper's Export Declarations are'' and add in their place ''Electronic Export Information (EEI) is''.
■ b. In paragraph (a)(2), remove the word ''shall'' and add in its place ''must''; and remove the word ''Customs'' and add in its place ''CBP''.
■ c. In paragraph (b), remove all references to ''Customs'' and add in their place ''CBP''.

§ 122.72 [Amended]

■ 18. Amend § 122.72 by removing the words ''Shipper's Export Declarations'' and adding in their place ''Electronic Export Information (EEI)''; and removing the word ''shall'' and adding in its place ''must''.

§ 122.73 [Amended]

■ 19. Amend § 122.73 as follows:
■ a. In paragraph (a)(1), remove the word ''Customs'' and add in its place ''CBP'' and remove all references to ''shall'' and add in their place ''must''.
■ b. In paragraph (a)(2), remove the word ''Customs'' and add in its place ''CBP''; and remove the word ''shall'' and add in its place ''must''.
■ c. In paragraph (a)(3), remove the word ''Customs'' and add in its place ''CBP''; and remove the word ''shall'' and add in its place ''will''.
■ d. In paragraph (b)(1) remove the word ''Customs'' and add in its place ''CBP''; and remove all references to the word ''shall'' and add in their place ''must''.
■ e. In paragraph (b)(2) introductory text, remove all references to ''shall'' and add in their place ''must''.
■ f. In paragraph (b)(2)(i), remove the words ''Shipper's Export Declarations'' and add in their place ''Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends''.
■ 20. Amend § 122.74 as follows:
■ a. In paragraph (a)(1), remove all references to ''Customs'' and add in their place ''CBP''; and remove the words ''Shipper's Export Declarations'' and add in their place ''Electronic Export Information (EEI)''.
■ b. In paragraph (a)(2), remove all references to ''Shipper's Export Declarations'' and add in their place ''EEI filing citations, exclusions, and/or exemption legends''; remove the abbreviation ''U.S.'' and add in its place ''United States''; remove all references to ''shall'' and add in their place ''must''; and remove all references to ''Customs'' and add in their place ''CBP''.
■ c. Revise paragraph (b) introductory text and paragraph (b)(2).
■ d. Designate the undesignated paragraph following paragraph (b)(2) as ''Note to paragraph (b)''.
■ e. In paragraph (c)(1), remove the words ''Shipper's Export Declarations'' and add in their place ''EEI''; and remove the word ''shall'' and add in its place ''must''.
■ f. In paragraph (c)(2), remove all references to ''Shipper's Export Declarations shall'' and add in their place ''EEI must''.
■ g. In paragraph (c)(3), remove the words ''Shipper's Export Declarations shall'' and add in their place ''EEI must''.

The revisions read as follows:

§ 122.74 Incomplete (pro forma) manifest.

* * * * *

(b) *Exceptions.* In the following circumstances, an incomplete manifest will not be accepted and a complete air cargo manifest and all required EEI must

be filed with the port director before the aircraft will be cleared:

* * * * *

(2) If the aircraft is departing on a flight from the U.S. directly or indirectly to a foreign country listed in § 4.75 of this chapter.

* * * * *

■ 21. Amend § 122.75 as follows:

■ a. In paragraph (a) introductory text, remove all references to ''shall'' and add in their place ''must''; and remove the words ''a Shipper's Export Declaration'' and add in their place ''Electronic Export Information (EEI) filing citations, exemptions, and/or exclusion legends''.

■ b. Revise paragraph (a)(2).

■ c. In paragraph (b)(1), remove the words ''Attached Shipper's Export Declarations'' and add in their place ''The annotated EEI filing citations, exclusions, and/or exemption legends''.

■ d. In paragraph (b)(2), remove the word ''shall'' and add in its place ''must''; remove the words ''Shipper's Export Declarations'' and add in their place ''EEI filing citations, exclusions, and/or exemption legends''; and remove the words ''Attached Shipper's Export Declarations'' and add in their place ''The annotated EEI filing citations, exclusions, and/or exemption legends''.

The revision reads as follows:

§ 122.75 Complete manifest.

(a) * * *

(2) *Direct departure.* With regard to direct departures of shipments requiring EEI, each EEI filing citation must be listed on the air cargo manifest in the column for air waybill numbers. The statement ''Electronic Information Annotated'' must appear on the manifest if this is done.

* * * * *

■ 22. Amend § 122.76 as follows:

■ a. Revise the heading of the section and paragraph (a).

■ b. In paragraph (b), remove the word ''shall'' and add in its place ''must''; and remove the word ''Customs'' and add in its place ''CBP''.

The revisions read as follows:

§ 122.76 Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends and inspection certificates.

(a) *Electronic Export Information (EEI)*—(1) *Other than shipments to Puerto Rico.* For shipments other than to Puerto Rico, at the time of clearance, the aircraft commander or agent must file with the CBP port director of the departure airport any EEI filing citations, exclusions, and/or exemption legends required by the Census Bureau's Foreign Trade Regulations (FTR) (see 15 CFR part 30).

(2) *Shipments to Puerto Rico.* For flights carrying shipments to Puerto Rico from the United States, the aircraft commander or agent must file any EEI filing citations, exclusions, and/or exemption legends required by the Census Bureau's FTR (see 15 CFR part 30) upon arrival in Puerto Rico with the CBP port director there.

* * * * *

■ 23. Revise § 122.79 to read as follows:

§ 122.79 Shipments to U.S. possessions.

(a) *Other than Puerto Rico.* An air cargo manifest must be filed for aircraft transporting cargo between the United States and U.S. possessions. Electronic Export Information (EEI) is not required for shipments from the United States or Puerto Rico to the U.S. possessions, except to the U.S. Virgin Islands or from a U.S. possession and destined to the United States, Puerto Rico, or another U.S. possession.

(b) *Puerto Rico.* When an aircraft carries merchandise on a direct flight from the United States to Puerto Rico, any required air cargo manifest or EEI filing citations, exclusions, and/or exemption legends, must be filed with the appropriate port director Puerto Rico.

§ 122.143 [Amended]

■ 24. Amend § 122.143 as follows:

■ a. In paragraph (b) introductory text, remove the words ''Bureau of the Census'' in the heading and add in their place ''Census Bureau''; remove the words ''Bureau of the Census regulations'' in the text and add in their place ''Census Bureau's Foreign Trade Regulations''; and remove the word ''shall'' and add in its place ''will''.

■ b. In paragraph (b)(1), remove the words ''Shipper's Export Declarations'' and add in their place ''Electronic Export Information (EEI)''.

■ c. In paragraph (b)(2), remove the citation ''15 CFR 30.24'' and add in its place ''15 CFR 30.47''; and remove the words ''Shipper's Export Declarations are'' and add in their place ''EEI is''.

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

■ 25. The general authority citation for part 123 and the specific authority citation for § 123.28 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

Sections 123.21–123.23, 123.25–123.29, 123.41, 123.51 also issued under 19 U.S.C. 1554.

* * * * *

§ 123.28 [Amended]

■ 26. Amend § 123.28 as follows:

■ a. In paragraph (a), remove all references to ''shall'' and add in their place ''must''; and remove the words ''U.S. Customs'' and add in their place ''CBP''.

■ b. In paragraph (b), remove references to ''shall'' in the first and second sentence and add in their place ''will''; remove the words ''shipper's export declaration'' and add in their place ''Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends''; and remove the word ''shall'' in the third sentence and add in its place ''must''.

PART 141—ENTRY OF MERCHANDISE

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

Authority: 19 U.S.C. 66, 1448, 1484, 1498, 1624.

* * * * *

§ 141.43 [Amended]

■ 28. Amend paragraph (a) of § 141.43 by removing the words ''executing shippers' export declarations'' and adding in their place ''filing Electronic Export Information (EEI)''.

PART 191—DRAWBACK

■ 29. The general authority citation for part 191 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;

* * * * *

■ 30. Revise paragraph (c)(3) of § 191.51 to read as follows:

§ 191.51 Completion of drawback claims.

* * * * *

(c) * * *

(3) *Exports.* For exports, the HTSUSA number(s) or Schedule B commodity classification number(s) must be from the Electronic Export Information (EEI), when required. If no EEI is required (see, *e.g.,* 15 CFR 30.58), the claimant must provide the Schedule B commodity classification number(s) or HTSUSA number(s) that the exporter would have set forth in the EEI, but for the exemption from the requirement to file EEI.

* * * * *

PART 192—EXPORT CONTROL

■ 31. The authority citation for part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

§ 192.0 [Amended]

■ 32. Amend § 192.0 as follows:
■ a. Remove all references to ''Customs'' and add in their place ''CBP''.
■ b. Remove the words ''Census Regulations at part 30, subpart E (15 CFR part 30, subpart E)'' and add in their place ''Foreign Trade Regulations (FTR) of the Census Bureau, U.S. Department of Commerce, at part 30, subpart A (15 CFR part 30, subpart A)''.

■ 33. Revise § 192.11 to read as follows:

§ 192.11 Description of the AES.

The Automated Export System (AES) is the information system for collecting Electronic Export Information (EEI) from persons exporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands; between Puerto Rico and the United States; and to the U.S. Virgin Islands from the United States or Puerto Rico. Pursuant to the Census Bureau's Foreign Trade Regulations (FTR), all commodity export information for which EEI is required must be filed through the AES. This system is the CBP-approved electronic data interchange system used for purposes of filing EEI as required by § 192.14. AES is also the system by which certain sea carriers may report required outbound vessel information electronically (*see,* §§ 4.63, 4.75, and 4.76 of this chapter). Eligibility and application procedures are found in the General Requirements section of the FTR, codified at 15 CFR part 30, subpart A. The Census Bureau's FTR (15 CFR part 30, subpart A) provides that exporters may choose to submit export information through AES by any one of three electronic filing options available. Only Option 4, the complete post-departure submission of export information, requires prior approval by participating agencies before it can be used by AES participants.

■ 34. Revise § 192.14 to read as follows:

§ 192.14 Electronic information for outward cargo required in advance of departure.

(a) *General requirement.* Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 2071 note), for any commercial cargo that is to be exported from the United States by vessel, aircraft, rail, or truck, unless exempted under paragraph (d) of this section, the U.S. Principal Party in Interest (USPPI), the USPPI's authorized agent, or the authorized filing agent of the Foreign Principal Party in Interest (FPPI) must electronically transmit for receipt by CBP, no later than the time period specified in paragraph (b) of this section, certain Electronic Export Information (EEI), as enumerated in paragraph (c) of this section. Specifically, to effect the advance electronic transmission of the required cargo information to CBP, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must use a CBP-approved electronic data interchange system (currently, the Automated Export System (AES)).

(b) *Transmission of data*—(1) *Time for transmission of EEI.* The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must electronically transmit the EEI required by § 30.6 of the Census Bureau's FTR (15 CFR 30.6) and have received the AES Internal Transaction Number (ITN) (see paragraph (b)(3) of this section) for outbound cargo no later than the time period specified as follows:

(i) For vessel cargo, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 24 hours prior to loading cargo on the vessel at the U.S. port of lading;

(ii) For air cargo, including cargo being transported by air express couriers, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 2 hours prior to the scheduled departure time of the aircraft from the U.S. port of export;

(iii) For truck cargo, including cargo departing by express consignment courier, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 1 hour prior to the arrival of the truck at the border;

(iv) For rail cargo, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 2 hours prior to the arrival of the train at the border;

(v) For shipments of used self-propelled vehicles as defined in § 192.1, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier at least 72 hours prior to export; and

(vi) For cargo shipped by pipeline, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent should refer to § 30.4 of the Census Bureau's FTR (15 CFR 30.4, 30.46) for applicable time frames for the transmission of EEI.

(2) *Applicability of time frames.* The time periods in paragraph (b)(1) of this section for reporting required EEI to CBP for outward vessel, air, truck, or rail cargo only apply to shipments without an export license, license exemption, or license exception that require full predeparture reporting of shipment data, in order to comply with the advance cargo information filing requirements under section 343(a), Trade Act of 2002, as amended. Requirements placed on exports controlled by other government agencies will remain in force unless changed by the agency having the regulatory authority to do so. CBP will also continue to require 72-hour advance notice for used vehicle exports pursuant to § 192.2(c)(1) and (c)(2)(i). The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent should refer to the relevant titles of the Code of Federal Regulations (CFR) for pre-filing requirements of other government agencies. In particular, for the advance reporting requirements for exports of U.S. Munitions List items, see the U.S. Department of State's International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130).

(3) *System verification of data acceptance or rejection.* Once the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent has transmitted the EEI required under paragraphs (c)(1) and (c)(2) of this section, and AES has received and accepted this data, AES will generate and transmit to the party that filed the EEI a confirmation number, the Internal Transaction Number (ITN), assigned to that shipment confirming acceptance of the EEI transmission. When the submission is not accepted, a rejection message will be transmitted to the filer.

(c) *EEI required*—(1) *Commodity data.* The commodity data elements that are required to be reported electronically through the approved system are found in § 30.6 of the Census Bureau's FTR (15 CFR 30.6).

(2) *Transportation data.* The following transportation data elements are also required to be reported electronically through the approved system. These data elements are also found in § 30.6 of the Census Bureau's FTR (30 CFR 30.6):

(i) Method of transportation (the method of transportation is defined as

that by which the goods are exported or shipped (vessel, air, rail, or truck));

(ii) Carrier identification (for vessel, rail and truck shipments, the unique carrier identifier is the 4-character Standard Carrier Alpha Code (SCAC); for aircraft, the carrier identifier is the 2- or 3-character International Air Transport Association (IATA) code);

(iii) Conveyance name (the conveyance name is the name of the carrier; for sea carriers, this is the name of the vessel; for others, the carrier name);

(iv) Country of ultimate destination (this is the country as known to the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent at the time of exportation, where the cargo is to be consumed or further processed or manufactured; this country would be identified by the 2-character International Standards Organization (ISO) code for the country of ultimate destination);

(v) Date of export (the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the date the cargo is scheduled to leave the United States for all modes of transportation; if the actual date is not known, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the best estimate as to the time of departure); and

(vi) Port of export (the port where the outbound cargo departs from the United States is designated by its unique code, as set forth in Annex C, Harmonized Tariff Schedule of the United States (HTSUS); the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the port of exportation as known when the USPPI, USPPI's authorized agent, or the FPPI's authorized filing agent tenders the cargo to the outbound carrier; should the carrier export the cargo from a different port and the carrier so informs the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent, the port of exportation must be corrected by the filer in AES.).

(3) *Proof of electronic filing; exemption from filing.* The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must furnish to the exporting carrier a proof of EEI filing citation (the ITN), post-departure filing citation, AES downtime filing citation (when allowed), and the exclusion, and/or exemption legends (see paragraph (d) of this section) for annotation on the carrier's outward manifest, waybill, or other export documentation covering the cargo to be shipped. The proof of EEI filing citation (the ITN), post-departure filing citation, AES downtime filing citation, exclusion, and/or exemption legend must conform to the approved EEI filing citation, exclusion, and/or exemption legend formats in Appendix B to the Census Bureau's FTR (15 CFR part 30, Appendix B).

(4) *Carrier responsibility*—(i) *Loading of cargo.* The carrier may not load cargo without first receiving from the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent either the related electronic filing citation as prescribed under paragraph (c)(3) of this section, or an appropriate exemption legend for the cargo as specified in paragraph (d) of this section.

(ii) *High-risk cargo.* For cargo that CBP has identified as potentially high-risk, the carrier, after being duly notified by CBP, will be responsible for delivering the cargo for inspection/examination. When cargo identified as high risk has already been exported, CBP may demand that the export carrier redeliver the cargo in accordance with the terms of its international carrier bond (see § 113.64(k)(2) of this chapter).

(5) *USPPI receipt of information believed to be accurate.* When the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent electronically presenting the cargo information required in paragraphs (c)(1) and (c)(2) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent acquired this information, and whether and how the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent is able to verify this information. When the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent is not reasonably able to verify any information received, CBP will permit this party to electronically present the information on the basis of what it reasonably believes to be true.

(d) *Exemptions from reporting; Census exemptions or exclusions applicable.* The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must furnish to the outbound carrier an appropriate exemption or exclusion legend for any export shipment laden that is not subject to predeparture electronic information filing under this section. The exemption or exclusion legend must conform to the proper format approved by the Census Bureau (see 15 CFR part 30, Appendix B). Any exemptions or exclusions from reporting requirements for export cargo are enumerated in §§ 30.2 and 30.35 through 30.40 of the Census Bureau's FTR (15 CFR 30.2 and 30.35 through 30.40). These exemptions or exclusions under §§ 30.2 and 30.35 through 30.40 of the Census Bureau's FTR are equally applicable under this section.

Dated: July 5, 2017.

Kevin K. McAleenan,

Acting Commissioner.

[FR Doc. 2017–14549 Filed 7–12–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2017–0463]

Special Local Regulation; Wheeling Dragon Boat Race, Ohio River Miles 90.4–91.5

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation during the Wheeling Dragon Boat Race on the Ohio River, from miles 90.4 to 91.5, for all navigable waters of the river. This regulation is needed to protect vessels transiting the area and event spectators from the hazards associated with the Wheeling Dragon Boat Race. During the enforcement period, entry into, transiting, or anchoring in the regulated area is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

DATES: The regulations in the first table in 33 CFR 100.801, No. 30 will be enforced from 7:30 a.m. until 3:00 p.m., August 26, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST2 Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Charles.F.Morris@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations for the annual Wheeling Dragon Boat Race in the first table of 33 CFR 100.801, No. 30 from 7:30 a.m. until 3:00 p.m., August 26, 2017. Entry into the regulated area is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh

(COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the area must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 100.801 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

Dated: July 7, 2017.

L. Mcclain, Jr.,

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

[FR Doc. 2017–14684 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0536]

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone-Miesfeld's Lakeshore Weekend Fireworks; Sheboygan WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Miesfeld's Lakeshore Weekend fireworks display on Lake Michigan and Sheboygan Harbor, Wisconsin in the vicinity of the south pier, from 9 p.m. through 10 p.m. on July 28, 2017. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and after the fireworks display. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(49), Table 165.929, from 9 p.m. through 10 p.m. on July 28, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email MST1 Kaleena Carpino, Marine Event Coordinator, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone (414) 747–7148, email *D09-SMB-SECLakeMichigan-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Miesfeld's Lakeshore Weekend fireworks display safety zone listed as item (e)(49) in Table 165.929 of 33 CFR 165.929 from 9 p.m. through 10 p.m. on July 28, 2017. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone; this event is listed in the annual section, however it will occur on a different date than listed this year. It is listed in 33 CFR 165.929 to be held on July 29th, but will be held July 28th at the request of the event organizer. This safety zone will encompass all waters of Menominee River within the arc of a circle with a 800-foot radius from the approximate position 43°44.917′ N., 087°41.967′ W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF–FM.

This notice of enforcement is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted at 414–747–7182 or via Channel 16, VHF–FM.

Dated: July 6, 2017.

A.B. Cocanour,

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

[FR Doc. 2017–14729 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0580]

RIN 1625–AA00

Safety Zone; Cleveland Triathlon Swim Event; Lake Erie, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of Lake Erie at North Coast Harbor, Cleveland, OH during the Cleveland Triathlon swim event on July 23, 2017. This temporary safety zone is necessary to protect personnel, vessels, and the marine environment from the navigational hazards associated with the large scale swimming event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Buffalo.

DATES: This rule is effective from 5:45 a.m. through 10:00 a.m. on July 23, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0580 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 LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email *ryan.s.junod@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

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. The event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying this rulemaking to allow for a comment period to run would be impracticable and contrary to the public interest by inhibiting the

Coast Guard's ability to protect spectators and vessels from the hazards associated with this large scale swimming event in the Eastern Basin.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the Cleveland Triathlon.

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 Buffalo, NY (COTP) has determined that a large scale swimming event on a navigable waterway will pose a significant risk to participants and the boating public. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the Cleveland Triathlon.

IV. Discussion of the Rule

This rule establishes a safety zone from 5:45 a.m. through 10 a.m. on July 23, 2017. The safety zone will cover all navigable waters within 100 feet of a line starting at position 41°30′34.6″ N., 081°41′51.3″ W. extending in a straight line to the East Basin Breakwall at position 41°30′51.8″ N., 081°42′08.5″ 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. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting approximately 4 hours 15 minutes that will prohibit entry within all navigable waters in the vicinity of the swimmers participating in the Cleveland Triathlon. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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.T09–0580 to read as follows:

§ 165.T09–0580 Safety Zone; Cleveland Triathlon; Lake Erie, Cleveland, OH.

(a) *Location.* This zone will encompass all U.S. waterways of Lake Erie at North Coast Harbor, Cleveland, OH within 100 feet of a line starting at position 41°30′34.6″ N., 081°41′51.3″ W. extending in a straight line to the East Basin Breakwall at position 41°30′51.8″ N., 081°42′08.5″ W. (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 23, 2017, from 5:45 a.m. until 10 a.m.

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 7, 2017.

J.S. Dufresne,

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

[FR Doc. 2017–14679 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0666]

RIN 1625–AA00

Safety Zone; Oswego County Paddlefest; Oswego River, Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Oswego River, Oswego, NY. This safety zone is intended to restrict vessels from portions of the Oswego River during the Oswego County Paddlefest on July 22, 2017. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a large scale paddle event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

DATES: This rule is effective from 7:45 a.m. to 5:15 p.m. on July 22, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0666 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 about this rulemaking, call or email LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@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

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. The event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with a large scale paddle event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the

Federal Register because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the paddle 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 Buffalo (COTP) has determined that a large scale paddle event presents significant risks to public safety and property. Such hazards include a large number of paddle craft transiting a relatively narrow river. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the paddle event is taking place.

IV. Discussion of the Rule

This rule establishes a moving safety zone on July 22, 2017 from 7:45 a.m. to 5:15 p.m. The safety zone will encompass all waters of the Oswego River and Oswego Harbor contained within a 150 foot radius around groups of participant paddle craft starting at position 43°20′05.3″ N., 076°24′58.8″ W. and traveling northwest to position 43°27′44.2″ N. 076°30′54.9″ W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will only be enforced in the vicinity of paddle craft groups and has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within the particular areas are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a temporary safety zone. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to establishment of safety zones. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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.T09–0666 to read as follows:

§ 165.T09–0666 Safety Zone; Oswego County Paddlefest, Oswego River, Oswego, NY.

(a) *Location.* The safety zone will encompass all waters of the Oswego River and Oswego Harbor contained within a 150 foot radius around groups of participant paddle craft starting at position 43°20′08″ N., 076°24′58″ W. and traveling northwest to position 43°27′44.2″ N., 076°30′54.9″ W. (NAD 83).

(b) *Enforcement period.* This regulation will be enforced on July 22, 2017 7:45 a.m. until 5:15 p.m.

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 6, 2017.

J.S. Dufresne,

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

[FR Doc. 2017–14691 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0631]

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone-Sturgeon Bay Yacht Club Evening on the Bay Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Sturgeon Bay Yacht Club Evening on the Bay Fireworks on the Sturgeon Bay Ship Canal in Sturgeon Bay, WI from 8:30 p.m. through 10:30 p.m. on August 12, 2017. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and after the fireworks display. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for the safety zone listed in item (f)(4) of Table 165.929 from 8:30 p.m. through 10:30 p.m. on August 12, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email marine event coordinator, MST1 Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone (414) 747–7148, email *D09-SMB-SECLakeMichigan-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Sturgeon Bay Yacht Club Evening on the Bay Fireworks safety zone listed as item (f)(4) in Table 165.929 of 33 CFR 165.929 from 8:30 p.m. through 10:30 p.m. on August 12, 2017 on all waters of the Sturgeon Bay Ship Canal within the arc of a circle with a 500-foot radius from a center point launch position at 44°49.297′ N., 087°21.447′ W. (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative. The Captain of the Port Lake Michigan or a representative may be contacted at 414–747–7182 or via Channel 16, VHF–FM.

This notice of enforcement is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this safety zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted at 414–747–7182 or via Channel 16, VHF–FM.

Dated: July 6, 2017.

A.B. Cocanour,

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

[FR Doc. 2017–14688 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0482]

RIN 1625–AA00

Safety Zone; Cleveland Parade of Lights Boat Parade; Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a moving safety zone for certain waters of the Cuyahoga River. This action is necessary to provide for the safety of life on these navigable waters in the Cuyahoga River, Cleveland, OH during the Cleveland Parade of Lights on July 22, 2017. This temporary safety zone is necessary to protect personnel, vessels, and the marine environment from the potential hazards created by 60 vessels transiting in the river with lights not normally used for marine traffic navigation lights. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Buffalo.

DATES: This rule is effective from 10:00 p.m. through 11:30 p.m. on July 22, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0482 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 LT Ryan Junod, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0124, email *ryan.s.junod@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

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. The event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with a boat parade.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels near the boat parade.

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 Buffalo, NY (COTP) has determined that potential hazards associated with 60 vessels displaying lights that are not used for navigation will be a safety concern for other vessels underway. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the Cleveland Parade of Lights.

IV. Discussion of the Rule

This rule establishes a safety zone from 10 p.m. through 11:30 p.m. on July 22, 2017. The moving safety zone will encompass all waters within 25 feet of the vessels participating in the Cleveland Parade of Lights in the Cuyahoga River. The safety zone will move with participating vessels as they transit from the mouth of the Cuyahoga River in the vicinity of position 41°29′59″ N., 081°43′31″ W., to Merwin's Wharf in the vicinity of 41°29′23″ N., 081°42′16″ W., and returning to the mouth of the Old River at 41°29′55″ N., 081°42′18″ 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. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one and a half hours that will prohibit entry within a small area of the Cuyahoga River. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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.T09–0482 to read as follows:

§ 165.T09–0482 Moving Safety Zone; Cleveland Parade of Lights Boat Parade; Cuyahoga River, Cleveland, OH.

(a) *Location.* The moving safety zone will encompass all waters within 25 feet of the vessels participating in the Cleveland Parade of Lights in the Cuyahoga River. The safety zone will move with participating vessels as they transit from the mouth of the Cuyahoga River in the vicinity of position 41°29′59″ N., 081°43′31″ W., to Merwin's Wharf in the vicinity of 41°29′23″ N., 081°42′16″ W., and returning to the mouth of the Old River at 41°29′55″ N., 081°42′18″ W. (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 22, 2017 from 10 p.m. until 11:30 p.m.

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

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene

representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 6, 2017.

J.S. Dufresne,

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

[FR Doc. 2017–14697 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2016–0344; FRL–9962–39–Region 6]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Oklahoma Department of Environmental Quality (ODEQ) has applied to the Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final action. In the ''Proposed Rules'' section of this **Federal Register**, EPA is also publishing a separate document that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments which oppose this authorization during the comment period, the decision to authorize Oklahoma's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing this direct final rule before it takes effect, and the separate document in the ''Proposed Rules'' section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This final authorization is effective on September 11, 2017 unless the EPA receives adverse written comment by August 14, 2017. If the EPA receives such comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: patterson.alima@epa.gov.*
- *Fax:* (214) 665–6762 (prior to faxing, please notify Alima Patterson at (214) 665–8533).
- *Mail:* Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733.
- *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733.

Instructions: EPA must receive your comments by August 14, 2017. Direct your comments to Docket ID Number EPA–R06–RCRA–2016–0344. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or email. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.regulations.gov).*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov,* or in hard copy.

You can view and copy Oklahoma's application and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following locations: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180 and EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6, Regional Authorization Coordinator, Permit Section (6MM–RP), Multimedia Division, (214) 665–8533, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733, and Email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates

pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, the EPA will implement those requirements and prohibitions in the State of Oklahoma, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What decisions has the EPA made in this rule?

On November 1, 2015, the ODEQ submitted a final complete program revision application seeking authorization of changes to its hazardous waste program that correspond to Federal rules promulgated between July 1, 2013 and June 30, 2014 (RCRA Cluster XXIII). The EPA concludes that Oklahoma's application to revise its authorized program meets all of of the statutory and regulatory requirements established by RCRA. Therefore, we grant ODEQ final authorization to operate its hazardous waste program with the changes described in the authorization application. ODEQ has responsibility for permitting treatment, storage, and disposal facilities within its borders. Also, section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (''SAFETEA''), Public Law 109–59, 119 Statute 1144 (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA Subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Oklahoma including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Oklahoma subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. ODEQ has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- enforce RCRA requirements and suspend or revoke permits, and
- take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which ODEQ is being authorized by this direct action is already effective under State law, and are not changed by this action.

D. Why wasn't there a proposed rule before this direct final rule?

The EPA did not publish a proposal before this rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of this **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if the EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For what has Oklahoma previously been authorized?

ODEQ initially received final authorization on January 10, 1985 (49 FR 50362–50363), published December 27, 1984, to implement its base hazardous waste management program. We authorized the following revisions: ODEQ received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274), effective November 27, 1990; April 2, 1991 (56 FR 13411–13413), effective June 3, 1991; September 20, 1991 (56 FR 47675–47677), effective November 19, 1991; September 29, 1993 (58 FR 50854–50856), effective November 29, 1993; October 12, 1993 (58 FR 52679–52682), effective December 13, 1993; October 7, 1994 (59 FR 51116–51122), effective December 21, 1994; January 11, 1995 (60 FR 2699–2702), effective April 27, 1995; October 9, 1996 (61 FR 52884–52886), effective December 23, 1996; Technical Correction March 14, 1997 (62 FR 12100–12101), effective March 14, 1997; September 22, 1998 (63 FR 50528–50531), effective November 23, 1998; March 29, 2000 (65 FR 16528–16532), effective May 30, 2000; May 10, 2000 (65 FR 29981–29985), effective June 10, 2000; January 2, 2001 (66 FR 28–33), effective March 5, 2001; April 9, 2003 (68 FR 17308–17311), effective June 9, 2003; February 4, 2009 (74 FR 5994–6001), effective April 6, 2009; April 6, 2011 (76 FR 18927–18930), effective June 6, 2011; March 15, 2012 (77 FR 15273–15276), effective May 14, 2012; May 29, 2013 (78 FR 32161–32165), effective July 29, 2013; and August 29, 2014 (79 FR 51497–51500), effective October 28, 2014. The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on October 12, 1993 (58 FR 52679–52682), effective December 13, 1993; April 30, 1998 (63 FR 23673–23678), effective July 14, 1998; August 26, 1999 (64 FR 46567–46571), effective October 25, 1999; August 27, 2003 (68 FR 51488–51492), effective October 27, 2003; June 28, 2010 (75 FR 36546–36550), effective August 27, 2010; May 17, 2012 (77 FR 29231–29235), effective July 16, 2012; August 7, 2012, (77 FR 46964–46968), effective October 9, 2012; and July 1, 2014 (79 FR 37226–37230), effective September 2, 2014. On November 1, 2015, ODEQ submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The Oklahoma Hazardous Waste Management Act (OHWMA) provides the ODEQ with the authority to administer the State Program, including the statutory and regulatory provisions necessary to administer the provisions of RCRA Cluster XXIII, and designates the ODEQ as the State agency to cooperate and share information with EPA for purpose of hazardous waste regulation. The Oklahoma

Environmental Quality Code (''Code''), at 27A O.S. Section 2–7–101 *et seq.* establishes the statutory authority to administer the Hazardous waste management program under RCRA Subtitle C. The State regulations to manage the Hazardous waste management program is at Oklahoma Administrative Code (OAC) Title 252:205–3–2. One minor change occurred in the State Program, wherein the ODEQ revoked a portion of OAC 252:205 Subchapter 19, in order to make the existing state rules consistent with changes to the Oklahoma Statutes. 27A O.S. § 2–7–118(B) and (C) were revoked during the first Regular Session of the 54th Oklahoma Legislature. This statute prohibited, as a form of recycling, the burning of hazardous waste with a low heating value, or the blending of low-Btu fuel with other materials or wastes to create a hazardous waste fuel. The revocation of OAC 252:205–19–5 was proposed to reflect that deletion and to conform the state rules to the Oklahoma Statutes. These changes were neither more nor less stringent than the existing federal rules and, therefore, had no substantive impact on the hazardous waste program implemented by the Department of Environmental Quality.

The Oklahoma Legislature in April of 2015 amended the OHWMA by passing 27A O.S. § 2–7–116(H), which clarified that the temporary staging of hazardous waste in a permitted hazardous waste unit while the waste was undergoing analysis to determine that the waste is acceptable for disposal does not constitute disposal of the waste. This new provision, effecting what constitutes disposal in Oklahoma, has not been submitted for EPA review and we are taking no action on it in this rulemaking.

The ODEQ adopted applicable federal hazardous waste regulations as amended through July 1, 2014. The regulatory amendment implementing this adoption by reference has an effective date of September 15, 2015. The provisions for which the State of Oklahoma is seeking authorization are documented in the *Regulatory Documentation For Federal Provisions For Which The State Of Oklahoma Is Seeking Authorization, Federal Final Rules Published Between July 1, 2013 Through June 30, 2014, RCRA CLUSTER XXIII,* prepared on May 14, 2015.

The ODEQ incorporates the Federal Regulations by reference and there have been no changes in State or Federal laws or regulations that have diminished the ODEQ's ability to adopt the Federal regulations by reference. The Federal hazardous waste regulations are adopted by reference by the ODEQ at OAC 252:205, Subchapter 3. The ODEQ does not adopt Federal regulations prospectively.

The State Hazardous waste management program (''State Program'') now has in place, the statutory authority and regulations for all required components of federal regulations adopted in Checklists 229, 230, 231 and 232 in RCRA Cluster XXIII. These statutory and regulatory provisions were developed to ensure the State program is equivalent to, consistent with, and no less stringent than the Federal Hazardous waste management program.

The Environmental Quality Act, at 27A O.S. Section 1–3–101(E), grants the Oklahoma Corporation Commission (OCC) authority to regulate certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms, as well as, underground storage tanks. To clarify areas of environmental jurisdiction, the ODEQ and OCC developed an ODEQ/OCC Jurisdictional Guidance Document to identify respective areas of jurisdiction. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999. The revisions to the State Program necessary to administer Cluster XXIII will not affect the jurisdictional authorities of the ODEQ or OCC.

The ODEQ adopted RCRA Cluster XXIII applicable federal hazardous waste regulations as amended July 1, 2013 through June 30, 2014, and became effective on September 15, 2015. The rules were also codified at OAC 252 Chapter 205.

Pursuant to OAC 252:205–3–2, the State's incorporation of Federal regulations does not incorporate prospectively future changes to the incorporated sections of the 40 CFR, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the Federal provisions. Thus, OAC Title 252, Chapter 205 provides equivalent and no less stringent authority than the Federal Subtitle C program in effect July 1, 2014. The State of Oklahoma incorporates by reference the provisions of 40 CFR part 124 that are required by 40 CFR 271.14 (with the addition of 40 CFR 124.19(a) through (c), 124.19(e), 124.31, 124.32, 124.33 and subpart G); 40 CFR parts 260 through 268 [with the exception of 260.21, 262 subparts E and H, 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(1), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), 264.1080(g), 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f) 265.1080(e), 265.1080(f), 265.1080(g), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g)]; 40 CFR part 270 [with the exception of 270.1(c)(2)(ix) and 270.14(b)(18)]; 40 CFR part 273; and 40 CFR part 279.

The ODEQ is the lead Department to cooperate and share information with the EPA for purpose of hazardous waste regulation.

Pursuant to 27A O.S. Section 2–7–104, the Executive Director has created the Land Protection Division (LPD) to be responsible for implementing the State Program. The LPD is staffed with personnel that have the technical background and expertise to effectively implement the provisions of the State program Subtitle C Hazardous waste management program.

G. What changes are we authorizing with this action?

On November 1, 2015, the ODEQ submitted final complete program applications seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action that the ODEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The ODEQ revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated between July 1, 2013 through June 30, 2014 (RCRA Cluster XXIII). The ODEQ requirements are included in a chart within this document.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority	Analogous state authority
1. Conditional Exclusions for Solvent Contaminated Wipes (Checklist 229).	78 FR 46448–46485 July 31, 2013; effective January 31, 2014.	Oklahoma Statutes Title 27A Section 2–7–101 *et seq.,* Oklahoma Hazardous Waste Management Act, as amended November 13, 2014, Oklahoma Administrative Code, Title 252, Chapter 205, effective September 15, 2015.

Description of federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority	Analogous state authority
2. Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities (Checklist 230).	79 FR 350–364 January 3, 2014; effective March 4, 2014.	Oklahoma Statutes Title 27A Section 2–7–101 *et seq.,* Oklahoma Hazardous Waste Management Act, as amended November 13, 2014, Oklahoma Administrative Code, Title 252, Chapter 205, effective September 15, 2015.
3. Hazardous Waste Electronic Manifest System; Final Rule (Checklist 231).	79 FR 7518–7563 February 7, 2014; effective August 6, 2014.	Oklahoma Statutes Title 27A Section 2–7–101 *et seq.,* Oklahoma Hazardous Waste Management Act, as amended November 13, 2014, Oklahoma Administrative Code, Title 252, Chapter 205, effective September 15, 2015.
4. Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule (Checklist 232.	79 FR 36220–36231 June 26, 2014; effective December 26, 2014.	Oklahoma Statutes Title 27A Section 2–7–101 *et seq.*, Oklahoma Hazardous Waste Management Act, as amended November 13, 2014, Oklahoma Administrative Code, Title 252, Chapter 205, effective September 15, 2015.

H. Where are the revised State rules different from the Federal rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who handles permits after the authorization takes effect?

ODEQ will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Oklahoma is not yet authorized.

J. How does this action affect Indian country (8 U.S.C. 1151) in Oklahoma?

Section 8 U.S.C. 1151 does not affect the State of Oklahoma because under section 10211(a) of the SAFETEA, Public Law 109–59, 119 Statute 1144 (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA Subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA.

K. What is codification and is the EPA codifying Oklahoma's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart LL for this authorization of ODEQ's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** document.

I. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. The reference to Executive Order 13563 (76 FR 3821, January 21, 2011) is also exempt from review under Executive orders 12866 (56 FR 51735, October 4, 1993). This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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 document 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 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). This action will be effective September 11, 2017.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 24, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–14774 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2016–0558; FRL–9962–37–Region 6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Louisiana has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Louisiana's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on September 11, 2017 unless the EPA receives adverse written comment by August 14, 2017. If the EPA receives such comment, it will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: patterson.alima@epa.gov.*
- *Fax:* (214) 665–2182 (prior to faxing, please notify Alima Patterson at (214) 665–8533).
- *Mail:* Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733.
- *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733.

Instructions: EPA must receive your comments by August 14, 2017. Direct your comments to Docket ID Number EPA–R06–RCRA–2016–0558. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov*, or email. The Federal *regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov,* or Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559 and EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, (214) 665–8533, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, and email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is

modified or when certain other changes occur.

Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What decisions have the EPA made in this rule?

On August 5, 2016, the State of Louisiana submitted a final complete program revision application seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between February 14, 2014 and June 26, 2014, RCRA Cluster XXIII (Checklists 231 and 232). The EPA concludes that Louisiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants Louisiana final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section G of this document. The State of Louisiana has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments (HSWA), as discussed above. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Louisiana, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Louisiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Louisiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- enforce RCRA requirements and suspend or revoke permits, and
- take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which Louisiana is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why is EPA using a direct final rule?

Along with this direct final rule, the EPA is publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to authorize these State program changes. The EPA did not publish a proposal before this rule, because EPA views this as a routine program change and do not expect comments. The EPA also views the Louisiana program revisions as noncontroversial action and anticipates no adverse comment.

EPA is providing an opportunity for public comment now, as described in Section E of this document.

E. What happens if the EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous section, after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For what has Louisiana previously been authorized?

The State of Louisiana initially received final authorization on February 7, 1985, (50 FR 3348), to implement its base Hazardous Waste Management Program. We granted authorization for changes to their program on November 28, 1989 (54 FR 48889), effective January 29, 1990; August 26, 1991 (56 FR 41958), as corrected October 15, 1991 (56 FR 51762), effective October 25, 1991; November 7, 1994 (59 FR 55368), effective January 23, 1995 (Note: on January 23, 1995 (60 FR 4380), the EPA responded to public adverse comments and affirmed the effective date for the November 7, 1994 final rule). Then on April 11, 1995 (60 FR 18360), the EPA also made administrative corrections for the January 23, 1995 **Federal Register** document; December 23, 1994 (59 FR 66200), effective March 8, 1995; October 17, 1995 (60 FR 53704), effective January 2, 1996; March 28, 1996 (61 FR 13777), effective June 11, 1996; December 29, 1997 (62 FR 67572), effective March 16, 1998; October 23, 1998 (63 FR 56830), effective December 22, 1998; August 25, 1999 (64 FR 46302), effective October 25, 1999; September 2, 1999 (64 FR 48099), effective November 1, 1999; February 28, 2000 (65 FR 10411), effective April 28, 2000; January 2, 2001 (66 FR 23), effective March 5, 2001; December 9, 2003 (68 FR 68526), effective February 9, 2004; June 10, 2005 (70 FR 33852), effective August 9, 2005; November 13, 2006 (71 FR 66116), effective January 12, 2007; August 16, 2007 (72 FR 45905), effective October 15, 2007; May 20, 2009 (74 FR 23645), effective July 20, 2009; June 24, 2011 (76 FR 122), effective August 23, 2011; June 28, 2012 (77 FR 38530), effective August 27, 2012 and September 14, 2015 (80 FR 55032), effective November 14, 2015. On August 5, 2016, Louisiana applied for approval of its program revisions for specific rules in RCRA Clusters XXIII, in accordance with 40 CFR 271.21(b)(3).

Since 1979, through the Environmental Affairs Act, Act 449 enabled the Office of Environmental Affairs within the Louisiana Department of Natural Resources, as well as, the Environmental Control Commission to conduct an effective program designed to regulate those who generate, transport, treat, store, dispose or recycle hazardous waste. During the 1983 Regular Session of the Louisiana Legislature, Act 97 was adopted, which amended and reenacted La. R. S. 30:1051 *et seq.* as the Environmental Quality Act, renaming the Environmental Affairs Act (Act 1938 of 1979). This Act created Louisiana Department of Environmental Quality (LDEQ), including provisions for new offices within this new Department of Environmental Quality. Act 97 also transferred the duties and

responsibilities previously delegated to the Department of Natural Resources, Office of Environmental Affairs to the new Department. The LDEQ has lead agency jurisdictional authority for administering the RCRA Subtitle C program in Louisiana. Also, the LDEQ is designated to facilitate communication between the EPA and the State. During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the La. R. S. 30:2011 *et seq.,* allowing LDEQ to reengineer the Department to perform more efficiently and to meet its strategic goals.

It is the intention of the State, through this application, to demonstrate its equivalence and consistency with the federal statutory tests, which are outlined in the United States EPA regulatory requirements under 40 CFR part 271 for final authorization. The submittal of this application is in keeping with the spirit and intent of RCRA, which provides equivalent States the opportunity to apply for final delegation to operate all aspects of their hazardous waste management programs in lieu of the federal government. The Louisiana Environmental Quality Act authorizes the State's program, Subtitle II of Title 30 of the Louisiana Revised Statutes. The State's program is equivalent and consistent with the federal program, as outlined in revision checklists 231 and 232, which were adopted and became effective on April 20, 2016.

G. What changes are the EPA authorizing with today's action?

On August 5, 2016, Louisiana submitted a final complete program revision application seeking authorization for their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Louisiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the State of Louisiana Final authorization for the following changes. The State of Louisiana's program revisions consist of regulations which specifically govern Revision Checklists 231 and 232 in RCRA Cluster XXIII as documented in this **Federal Register** document.

Description of Federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
1. Hazardous Waste Electronic Manifest Rule. (Checklist 231).	79 FR 7518–7563 February 7, 2014.	Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials Subpart 1. Section 109. Electronic Manifest or e-Manifest. Note: States cannot receive authorization to implement EPA's national e-Manifest system. Therefore, States must not replace language referring to ''EPA'' with State terms; 109. Electronic, Manifest System or e-Manifest System, 107. User of the electronic manifest system, 1107.A.9, 1107.A.9.a–9.b, 1107.F, 1107.F.1, 1107.F.1.a–1..d, 1107.F.2–7, 1107.G, 1107.G.1, 1107.G.1, 1107.G.1.a–b, 1307.A, 1307.A, 1307.A.1–2, 1301.A, 1307.1, 1307.I.1–5, 1307.J, 1307.K, 1307.K.1–4, 1307.L, 1307.M, 1307.N, 1307.N.1, 1516.B.1, 1516.B.1.a, 1516.B.b, 1516.B1.c–d, 1516.B.1.f, 1516.F, 1516.F.1, 1516.F.2–5, 1516.G, 1516.H, 1516.H.1, 1516.H.2–4, 1516.1, 1516.J, 1516.K, 1516.B.1, 1516.B.1.a–e, 1516.B.1.f, 1516.F, 1516.F.1–5, 1516.G, 1516.H, 1516.H.1, 1516–K 1516.H.2–4 and 1516.I, as amended effective April 20, 2016.
2. Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule. (Checklist 232).	79 FR 36330–36231 June 26, 2014.	Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials Subpart 1. Section 109. CRT Exporter, 4911.A.5.a.i.(f) note LDEQ has adopted the entire rule language of 40 CFR part 261.3(a)(5) which has been incorporated by reference; 4911.A.5.a.ii.x, 4911.A.5.a.ii.x.(a)–c, 4911.A.5.a.ii.xi, 4915, 4915.A, 4915.A.1, 4915.A.1.a–h, 4915.A.2 and 4915.B, as amended effective April 20, 2016.

H. Where are the revised State rules different from the Federal rules?

The State of Louisiana regulations listed in this **Federal Register** document are equivalent and consistent with the Federal regulations adopted and are in effect April 20, 2016. There are no provisions that are more stringent or broader in scope.

I. Electronic Manifest Provisions That Are Non-Delegable to States

The Federal Hazardous Waste Electronic Manifest Rule (79 FR 7518; February 7, 2014) contains several provisions which are non-delegable to States. Specifically, States cannot receive authorization to establish a Federal user under the electronic manifest requirements, nor can States receive authorization for the electronic signature requirements, resulting in the States' inability to implement the provisions listed below. However, EPA strongly recommends States adopt these provisions while retaining the EPA rule language unchanged; Louisiana has adopted the Electronic Manifest Rule using this approach. The non-delegable provisions and provisions where States must retain references to ''EPA'' are: 40 CFR 260.10 ''electronic manifest'', ''electronic manifest system'', ''use of the electronic manifest system''; 262.24(g); 262.25; 263.20(a)(2); 262.20(a)(3)(ii); 263.20(a)(8); 264.71(a)(2)(v); 264.71(j); 265.71(a)(2)(v); and 265.71(j).

J. Who handles permits after the authorization takes effect?

The State of Louisiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. EPA will not issue any more new permits or new portions of permits for the provisions listed in the chart in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which LDEQ is not yet authorized.

K. How does today's action affect Indian Country (18 U.S.C. 1151) in Louisiana?

Louisiana is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

L. What is codification and is the EPA codifying Louisiana's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272 subpart T for this authorization of Louisiana's program changes until a later date. In this authorization application, the EPA is not codifying the rules documented in this **Federal Register** notice.

M. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action (RCRA State Authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization, as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. It's main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and impose no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

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 document 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 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). This action nevertheless will be effective September 11, 2017.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 24, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–14766 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 409, 431, 447, 482, 483, 485, 488, and 489

[CMS–3260–F2]

RIN–0938–AR61

Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities

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

ACTION: Final rule; correction and correcting amendment.

SUMMARY: In the October 4, 2016 issue of the **Federal Register**, we published a final rule revising the requirements that Long-Term Care (LTC) facilities must meet to participate in the Medicare and Medicaid programs. The effective date was November 28, 2016. This document corrects technical and typographical errors identified in the October 4, 2016 final rule.

DATES: This document is effective July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Ronisha Blackstone, (410) 786–6882.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–23503 which appeared in the October 4, 2016 **Federal Register** (81 FR 68688), entitled ''Reform of Requirements for Long-Term Care Facilities,'' there were technical and typographical errors that are identified and corrected in the Implementation Timeframe table of the preamble and in the regulations text of this document.

II. Summary of Errors

A. Summary of Errors in the Preamble

We inadvertently made technical and typographical errors in the preamble as follows:

On page 68725, fourth full paragraph of the second column, we inadvertently referenced proposed § 482.11 instead of proposed § 483.11.

On page 68729, second paragraph of the third column, we inadvertently referenced § 482.15(a) instead of § 483.15(a).

On page 68736, second full paragraph of the second column, we inadvertently referenced § 482.20(k)(4) instead of § 483.20(k)(4).

Under the Implementation Timeframe table we made technical and typographical errors as follows:

On page 68696, under § 483.12, we inadvertently referenced the ''Coordination with QAPI Plan'' instead of the ''Coordination with QAPI Program.'' We are correcting this error to clarify that the Coordination with QAPI Program will be implemented in Phase 3.

On page 68697, we inadvertently designated existing requirements at § 483.45(e)(1) and (2) to be implemented in the second phase of the implementation schedule. Requirements at § 483.45(e)(1) and (2) are redesignations and do not reflect a change in policy. We indicated in the final rule (81 FR 68696) that the first phase of implementation will include those requirements that were unchanged or received only minor modification. Therefore, we are correcting the exceptions to the Phase 1 implementation deadlines to specify that the requirements at § 483.45(e)(3), (4), and (5) Psychotropic drugs will be implemented in Phase 2.

On page 68697, we inadvertently designated existing requirements at § 483.75(g)(2)(i) and (ii) to be implemented in the third phase of the implementation schedule. Requirements at § 483.75(g)(2)(i) and (ii) are redesignations and do not reflect a change in policy. We indicated in the final rule (81 FR 68696) that the first phase of implementation will include those requirements that were unchanged or received only minor modification. Therefore, we are correcting the exceptions to the Phase 3 implementation deadlines under ''§ 483.75—Quality assurance and performance improvement'' by replacing the paragraph designation (g)(1) with (g), subparagraph designation (iv) with (g)(1)(iv), and clarifying that (g)(2)(iii) will also be implemented in Phase 3. Also, we are correcting the acronym ''ICPO'' to read ''IP.''

B. Summary of Errors in the Regulations Text

On page 68847, we inadvertently omitted a conforming change to revise cross-references to part 483 found in part 409. Sections 409.20 and 409.26 include incorrect cross-references to § 483.75(n). We inadvertently did not update these cross-references. Therefore, we are revising § 409.20 and § 409.26 to correct the cross-reference by replacing § 483.75(n) with § 483.70(j).

On page 68847, we made technical errors in the regulations text for § 482.58. We inadvertently used the cross-references from the proposed rule ''Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities'' (80 FR 42246) rather than the final rule. We are revising § 482.58 to correct the cross-references. As we noted in the proposed rule, the revised citations correspond to cross-references previously set out at § 482.58 and make no substantive policy changes.

On page 68848, we made technical errors in the regulations text of § 483.5. We inadvertently omitted a conforming change to revise cross-references in the definitions of ''composite distinct part'' and ''distinct part.'' We are revising the definition of ''composite distinct part'' and the definition for ''distinct part.'' We made no substantive changes.

On page 68854, we inadvertently designated a cross-reference at § 483.10(i)(4), and on pages 68856 and 68857, we inadvertently designated cross-references at § 483.15(a) through (d).

On page 68856, we made a technical error in the regulations text of § 483.15(c)(2)(iii)(F). We inadvertently omitted the apostrophe from the word ''resident's.''

On page 68863, we made a technical error in the amendatory instruction for § 483.45. We set out the regulatory text for paragraph (c)(5) but inadvertently omitted the instruction to add paragraph (c)(5) as a new paragraph. We are revising § 483.45 by adding an instruction to add paragraph (c)(5).

On page 68863, we made a technical error in the regulations text of § 483.50(a)(2)(iii). We inadvertently misspelled the word ''assistance.''

On page 68865, we made a technical error in the amendatory instruction for § 483.70(i), in which we inadvertently omitted the instruction to revise the paragraph heading for paragraph (i). We are inserting this instruction in this final rule.

On page 68868, we made a technical error in the regulations text for § 483.75(g)(1)(iv). In the preamble of the final rule (81 FR 68812), we indicated that in § 483.80(b) we were changing our use of ''infection control and prevention officer (ICPO)'' to ''infection preventionist (IP).'' Section 483.75(g)(1)(iv) also uses the term ''infection control and prevention officer.'' We are revising § 483.75(g)(1)(iv) by replacing the phrase ''infection control and prevention officer'' with ''infection preventionist.''

On page 68869, we made a technical error in the regulations text for § 483.85(b). We incorrectly indicated that the operating organization for each facility must have in operation a compliance and ethics program by November 28, 2017. In the final rule (81 FR 68697) we indicated that all the requirements in § 483.85 would be implemented in Phase 3 (November 28, 2019). Therefore, we are revising paragraph § 483.85(b) to accurately indicate that the operating organization for each facility must have in operation a compliance and ethics program by November 28, 2019 and removing the reference to November 28, 2017.

On page 68870, we made technical errors in the regulations text for § 483.90. We incorrectly designated paragraph § 483.90(d) as (c), which resulted in the omission of existing requirements at § 483.90(c) in the Code of Federal Regulations (CFR). We are

revising § 483.90 to correctly designate the paragraphs in this section and add the omitted requirements.

On page 68871, we made a technical error in the amendatory instruction for § 485.635. We incorrectly revised the cross-reference to § 483.25(i) in § 485.635(a)(3)(vii). We are revising § 485.635 to correct the cross-reference by replacing the reference to ''§ 483.25(d)(8)'' with ''§ 483.25(g.)''

On page 68871, we made technical errors in the regulations text for § 485.645. We inadvertently used the cross-references from the proposed rule ''Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities (80 FR 42269) rather than the final rule. We are revising § 485.645 to correct the cross-references. As we noted in the proposed rule, the revised citations correspond to cross-references previously set out at § 485.645 and make no substantive policy changes.

On page 68871, we made a technical error in the regulations text for § 488.56. Section 488.56(b) and (b)(2) include incorrect cross-references to § 488.75(i). We inadvertently did not update these cross-references. Therefore, we are revising § 488.56 to correct the cross-reference by replacing § 488.75(i) with § 483.70(h).

III. Waiver of Proposed Rulemaking and Delay in Effective Date

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

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

Our revisions to the requirements for Long-Term Care (LTC) facilities found in part 483 subpart B have previously been subjected to notice and comment procedures. These corrections are consistent with the discussion of the policy in the October 2016 final rule and do not make substantive changes to this policy. This correcting amendment merely corrects technical errors in the regulations text of the October 2016 final rule and makes no substantive policy changes. As a result, this correcting amendment is intended to ensure that the October 2016 final rule accurately reflects the policy adopted in the final rule. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule is unnecessary and contrary to the public interest.

For the same reasons, we are also waiving the 30-day delay in effective date for this correcting amendment. We believe that it is in the public interest to ensure that the October 2016 final rule accurately reflect our revisions to the requirements for LTC facilities. Delaying the effective date of these corrections would be contrary to the public interest. Therefore, we also find good cause to waive the 30-day delay in effective date.

IV. Correction of Errors in the Preamble

a. On page 68725, in second column; in the fourth paragraph, line 21 remove ''482.11'' and add in its place ''483.11''.

b. On page 68729, in the third column; in the second paragraph, line 11 remove ''482.15(a)'' and add in its place ''483.15(a)''.

c. On page 68736, in the second column; in the second paragraph, line 58 remove '' 482.20(k)(4)'' and add in its place ''483.20(k)(4)''.

d. On page 68696, in the table under the ''Implementation deadline'' heading, second column, in the second bullet, after the word ''QAPI,'' remove the word ''Plan'' and add ''Program'' in its place.

e. On page 68697, in the table under the ''Implementation deadline'' heading, second column—

1. In the sixth bullet, remove the phrase ''(e) Psychotropic drugs—Implemented in Phase 2'' and add ''(e)(3), (4), and (5) Psychotropic drugs—Implemented in Phase 2'' in its place.

2. In the sixteenth bullet—

A. Remove the reference to ''(g)(1)'' and add ''(g)'' in its place.

B. Remove the phrase ''with the exception of subparagraph (iv), the addition of the ICPO, which will be implemented in Phase 3'' and add ''with the exception of aragraphs (g)(1)(iv) (the addition of the IP) and (g)(2)(iii) (regarding the use of QAPI data), which will be implemented in Phase 3''.

C. Remove the acronym ''ICPO'' and add ''IP'' in its place.

List of Subjects

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 482

Grant programs—health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Medicare, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 488

Administrative practice and procedure, Health facilities, Medicare, Reporting and recordkeeping requirements.

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

PART 409—HOSPITAL INSURANCE BENEFITS

■ 1. The authority citation for part 409 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 409.20 [Amended]

■ 2. In § 409.20, amend paragraph (a)(6) by removing the cross-reference ''§ 483.75(n)'' and adding in its place ''§ 483.70(j)''.

§ 409.26 [Amended]

■ 3. In § 409.26, amend paragraph (a)(1) by removing the cross-reference ''§ 483.75(n)'' and adding in its place ''§ 483.70(j)''.

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

■ 4. The authority citation for part 482 continues to read as follows:

Authority: Secs. 1102, 1871 and 1881 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr), unless otherwise noted.

■ 5. In § 482.58 revise paragraph (b) to read as follows:

§ 482.58 Special requirements for hospital providers of long-term care services (''swing-beds'')

* * * * *

(b) *Skilled nursing facility services.* The facility is substantially in compliance with the following skilled nursing facility requirements contained in subpart B of part 483 of this chapter.

(1) Resident rights (§ 483.10(b)(7), (c)(1), (c)(2)(iii), (c)(6), (d), (e)(2), (e)(4), (f)(4)(ii), (f)(4)(iii), (f)(9), (h), (g)(8), (g)(17), and (g)(18) introductory text.

(2) Admission, transfer, and discharge rights (§ 483.5 definition of transfer and discharge, § 483.15(c)(1), (c)(2)(i), (c)(2)(ii), (c)(3), (c)(4), (c)(5), and (c)(7)).

(3) Freedom from abuse, neglect, and exploitation (§ 483.12(a)(1), (a)(2), (a)(3)(i), (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c)).

(4) Patient activities (§ 483.24(c)).

(5) Social services (§ 483.40(d) and 483.70(p)).

(6) Discharge planning (§ 483.20(e)).

(7) Specialized rehabilitative services (§ 483.65).

(8) Dental services (§ 483.55).

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

■ 6. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, 1395hh and 1396r).

■ 7. In § 483.5, amend the definition of ''Composite distinct part'' by revising paragraph (2) introductory text and amend the definition of ''Distinct part'' by revising paragraph (1) to read as follows:

§ 483.5 Definitions.

* * * * *

Composite distinct part—* * *

(2) Requirements. In addition to meeting the requirements of specified in the definition of ''distinct part'' of this section, a composite distinct part must meet all of the following requirements:

* * * * *

Distinct part—(1) *Definition.* A distinct part SNF or NF is physically distinguishable from the larger institution or institutional complex that houses it, meets the requirements of this paragraph and of paragraph (2) of this definition, and meets the applicable statutory requirements for SNFs or NFs in sections 1819 or 1919 of the Act, respectively. A distinct part SNF or NF may comprise one or more buildings or designated parts of buildings (that is, wings, wards, or floors) that are: In the same physical area immediately adjacent to the institution's main buildings; other areas and structures that are not strictly contiguous with the main buildings but are located within close proximity to the main buildings; and any other areas that CMS determines on an individual basis, to be part of the institution's campus. A distinct part must include all of the beds within the designated area, and cannot consist of a random collection of individual rooms or beds that are scattered throughout the physical plant. The term ''distinct part'' also includes a composite distinct part that meets the additional requirements specified in the definition of ''composite distinct part'' of this section.

* * * * *

§ 483.10 [Amended]

■ 8. In § 483.10, amend paragraph (i)(4) by removing the reference ''§ 483.90(d)(2)(iv)'' and adding in its place ''§ 483.90(e)(2)(iv)''.

§ 483.15 [Amended]

■ 9. In § 483.15—

■ a. Amend paragraph (a)(7) by removing the reference ''paragraph (b)(10)'' and adding in its place ''paragraph (c)(9)''.

■ b. Amend paragraph (b)(2) by removing the reference to ''§ 483.10(g)(3)'' and adding in its place ''§ 483.10(g)(18)(i)''.

■ c. Amend paragraph (c)(2)(ii)(B) by removing the reference ''paragraph (b)(1)(i)(C) or (D)'' and adding in its place ''paragraph (c)(1)(i)(C) or (D)''.

■ d. Amend paragraph (c)(2)(iii)(F) by removing the word ''residents'' and adding in its place ''resident's''.

■ e. Amend paragraph (c)(3)(iii) by removing the reference to ''paragraph (b)(5)'' and adding in its place ''paragraph (c)(5)''.

■ f. Amend paragraph (c)(4)(i) by removing the reference ''paragraphs (b)(4)(ii) and (b)(8)'' and adding in its place ''paragraphs (c)(4)(ii) and (8)''.

■ g. Amend paragraph (c)(4)(ii)(A) by removing the reference to ''paragraph (b)(1)(ii)(C)'' and adding in its place ''paragraph (c)(1)(i)(C)''.

■ h. Amend paragraph (c)(4)(ii)(B) by removing the reference to ''paragraph (b)(1)(ii)(D)'' and adding in its place ''paragraph (c)(1)(i)(D)''.

■ i. Amend paragraph (c)(4)(ii)(C) by removing the reference ''paragraph (b)(1)(ii)(B)'' and adding in its place ''paragraph (c)(1)(i)(B)''.

■ j. Amend paragraph (c)(4)(ii)(D) by removing the reference ''paragraph (b)(1)(ii)(A)'' and adding in its place ''paragraph (c)(1)(i)(A)''.

■ k. Amend paragraph (c)(5) introductory text by removing the reference ''paragraph (b)(3)'' and adding in its place ''paragraph (c)(3)''.

■ l. Amend paragraph (d)(1)(iii) by removing the reference ''paragraph (c)(3)'' and adding in its place ''paragraph (e)(1)''.

■ m. Amend paragraph (d)(1)(iv) by removing the reference ''paragraph (c)(3)'' and adding in its place ''paragraph (e)(1)''.

■ n. Amend paragraph (d)(2) by removing the reference ''paragraph (c)(1)'' and adding in its place ''paragraph (d)(1)''.

■ 10. In § 483.45 add paragraph (c)(5) to read as follows:

§ 483.45 Pharmacy services.

* * * * *

(c) * * *

(5) The facility must develop and maintain policies and procedures for the monthly drug regimen review that include, but are not limited to, time frames for the different steps in the process and steps the pharmacist must take when he or she identifies an irregularity that requires urgent action to protect the resident.

* * * * *

§ 483.50 [Amended]

■ 11. In § 483.50, amend paragraph (a)(2)(iii) by removing the word ''asistance'' and adding in its place ''assistance''.

■ 12. In § 483.70 revise the heading to paragraph (i) to read as follows:

§ 483.70 Administration.

* * * * *

(i) Medical records. * * *

* * * * *

§ 483.75 [Amended]

■ 13. In § 483.75, amend paragraph (g)(1)(iv) by removing the phrase ''infection control and prevention officer'' and adding in its place ''infection preventionist''.

■ 14. In § 483.85 revise paragraph (b) to read as follows:

§ 483.85 Compliance and ethics program.

* * * * *

(b) *General rule.* Beginning November 28, 2019, the operating organization for each facility must have in operation a compliance and ethics program (as defined in paragraph (a) of this section) that meets the requirements of this section.

* * * * *

■ 15. In § 483.90 revise paragraph (c) to read as follows:

§ 483.90 Physical environment.

* * * * *

(c) *Emergency power.* (1) An emergency electrical power system must supply power adequate at least for lighting all entrances and exits;

equipment to maintain the fire detection, alarm, and extinguishing systems; and life support systems in the event the normal electrical supply is interrupted.

(2) When life support systems are used, the facility must provide emergency electrical power with an emergency generator (as defined in NFPA 99, Health Care Facilities) that is located on the premises.

* * * * *

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

■ 16. The authority citation for part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395(hh)).

§ 485.635 [Amended]

■ 17. In § 485.635, amend paragraph (a)(3)(vii) by removing the reference to ''§ 483.25(d)(8)'' and adding in its place ''§ 483.25(g)''.

■ 18. In § 485.645—

■ a. Revise paragraph (d)(1).

■ b. Remove paragraph (d)(2).

■ c. Redesignate paragraphs (d)(3) through (10) as paragraphs (d)(2) through (9), respectively.

■ d. Revise newly redesignated paragraphs (d)(2) through (9).

The revisions read as follows:

§ 485.645 Special requirements for CAH providers of long-term care services (''swing-beds'')

* * * * *

(d) * * *

(1) Resident rights (§ 483.10(b)(7), (c)(1), (c)(2)(iii), (c)(6), (d), (e)(2), (e)(4), (f)(4)(ii), (f)(4)(iii), (f)(9), (g)(8), (g)(17), (g)(18) introductory text, (h) of this chapter).

(2) Admission, transfer, and discharge rights (§ 483.5 definition of transfer & discharge, § 483.15(c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (c)(7), (c)(8), and (c)(9) of this chapter).

(3) Freedom from abuse, neglect and exploitation (§ 483.12(a)(1), (a)(2), (a)(3)(i), (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c)(1), (c)(2), (c)(3), and (c)(4) of this chapter).

(4) Patient activities (§ 483.24(c) of this chapter), except that the services may be directed either by a qualified professional meeting the requirements of § 483.24(c)(2), or by an individual on the facility staff who is designated as the activities director and who serves in consultation with a therapeutic recreation specialist, occupational therapist, or other professional with experience or education in recreational therapy.

(5) Social services (§ 483.40(d) and § 483.70(p) of this chapter).

(6) Comprehensive assessment, comprehensive care plan, and discharge planning (§ 483.20(b), and § 483.21(b) and (c)(2) of this chapter), except that the CAH is not required to use the resident assessment instrument (RAI) specified by the State that is required under § 483.20(b), or to comply with the requirements for frequency, scope, and number of assessments prescribed in § 413.343(b) of this chapter).

(7) Specialized rehabilitative services (§ 483.65 of this chapter).

(8) Dental services (§ 483.55 of this chapter).

(9) Nutrition (§ 483.25(g)(1) and (g)(2) of this chapter).

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

■ 19. The authority citation for part 488 continues to read as follows:

Authority: Secs. 1102, 1128l, 1864, 1865, 1871 and 1875 of the Social Security Act, unless otherwise noted (42 U.S.C 1302, 1320a–7j, 1395aa, 1395bb, 1395hh) and 1395ll.

§ 488.56 [Amended]

■ 20. In § 488.56 amend paragraphs (b) introductory text and (b)(2) by removing the reference ''§ 488.75(i)'' and adding in its place ''§ 483.70(h)''.

Dated: June 30, 2017.

Thomas E. Price

Secretary, Department of Health and Human Services.

[FR Doc. 2017–14646 Filed 7–12–17; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 25, 73, and 74

[GN Docket No. 15–236; DA 17–562]

Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of petition for reconsideration.

SUMMARY: In this Order on Reconsideration, the Federal Communications Commission (Commission) dismisses a petition for reconsideration filed in this rulemaking proceeding by William J. Kirsch. This action was taken on delegated authority jointly by the Acting Chief, International Bureau, and the Chief, Media Bureau.

DATES: July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Gabrielle Kim or Francis Gutierrez, Telecommunications and Analysis Division, International Bureau, FCC, (202) 418–1480 or via email to *Gabrielle.Kim@fcc.gov, Francis.Gutierrez@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in GN Docket No. 15–236, DA 17–562, adopted and released on June 8, 2017. The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). The document also is available for download over the Internet at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0608/DA-17-562A1.pdf.*

Synopsis

1. In the *2016 Foreign Ownership Report and Order,* 81 FR 86586, the Commission modified the foreign ownership filing and review process for broadcast licensees by extending the streamlined procedures developed for foreign ownership reviews for common carrier and certain aeronautical licensees under section 310(b)(4) of the Communications Act of 1934, as amended (the ''Act''), to the broadcast context with certain limited exceptions. The Commission also reformed the methodology used by both common carrier and broadcast licensees that are, or are controlled by, U.S. public companies to assess compliance with the foreign ownership restrictions in section 310(b)(3) and 310(b)(4) of the Act, respectively. In response, a petition for reconsideration (Petition) was filed by William J. Kirsch (Petitioner) asserting that the Commission did not address the concerns he had raised earlier in the proceeding in response to the *2015 Foreign Ownership NPRM,* 80 FR 68815.

2. The Order on Reconsideration dismisses the Petition because it does not meet the requirements of section 1.429 of the Commission's rules and plainly does not warrant consideration by the Commission. More specifically, the Petition fails to state with particularity the respects in which the Petitioner believes the action taken by the Commission in the *2016 Foreign Ownership Report and Order* should be changed; relies on arguments that the

Commission fully considered and rejected; relates to matters outside the scope of the proceeding; and fails to identify any material error, omission, or reason warranting reconsideration. This action was taken by the International Bureau and the Media Bureau pursuant to delegated authority under section 1.429(l) of the Commission's rules.

3. The Order on Reconsideration finds the Petition fails to state with particularity the respects in which Petitioner believes the Commission's action in the *2016 Foreign Ownership Report and Order* should be changed. The Order on Reconsideration notes that the Petition only consists of generalized claims and requests and offers no evidence or analysis to support the assertions. To the extent the Petition's assertions can be construed as requesting that the Commission adopt a reciprocity standard in the broadcast context, the Petition does not explain with any specificity how the Commission would make changes to implement such a reciprocity standard. Nor does it address how the *2016 Foreign Ownership Report and Order* changes existing Commission policy and precedent with respect to the agency's evaluation of foreign ownership of broadcast licensees in this respect, which requires the Commission to assess, in each particular case, whether the foreign interests presented for approval by the licensee are in the public interest consistent with section 310(b)(4), and accords deference to the expertise of the relevant Executive Branch agencies relating to trade policy as well as national security, law enforcement, and foreign policy matters. In sum, the Petition does not identify particular procedures adopted in the *2016 Foreign Ownership Report and Order* that Petitioner believes should be changed or explain with specificity how Petitioner believes the Commission should implement any such changes.

4. The Order on Reconsideration also finds that the Petition raises no relevant new arguments and merely echoes Petitioner's earlier arguments, made in response to the *2015 Foreign Ownership NPRM,* that taking the proposed action would raise trade concerns contrary to the public interest. The Commission, however, addressed this issue in the *2016 Foreign Ownership Report and Order,* finding that the relevant Executive Branch agencies will continue to review foreign ownership petitions for declaratory ruling filed pursuant to section 310(b)(4) of the Act, where appropriate, and advise the Commission of any national security, law enforcement, foreign policy, or trade policy concerns. The Commission found that this review process will continue to address concerns raised by a particular foreign investment in the broadcasting context, and specifically Petitioner's concerns about what it characterizes as a ''unilateral trade concession.'' In extending the procedures applicable to common carrier licensees to broadcast licensees, the Commission concluded that the streamlined common carrier procedures for reviewing foreign ownership petitions create an efficient process that benefits filers without harm to the public. These changes in procedure were not intended to have any substantive effect on Executive Branch agency review of these petitions, and there is no reason to believe that the Commission's action in the *2016 Foreign Ownership Report and Order* will in fact have any such effect. And Petitioner has suggested nothing that indicates otherwise.

5. In sum, the Commission fully considered Petitioner's earlier arguments and explained in the *2016 Foreign Ownership Report and Order* the reasons for the Commission's decisions. Moreover, to the extent they can be discerned, Petitioner's real concerns appear to be about the substantive evaluation of foreign ownership in broadcasting as it may relate to trade policy. The *2016 Foreign Ownership Report and Order,* however, only streamlined the procedures for seeking an evaluation. It did not address the substantive criteria for the evaluation. The Petition, therefore, also warrants dismissal for relating to matters outside the scope of the *2016 Foreign Ownership Report and Order.*

6. The Petition also fails to demonstrate any material error, omission, or reason warranting reconsideration of the *2016 Foreign Ownership Report and Order.* The Petition does not identify any basis in the statute or relevant authority that would prohibit the Commission from adopting the streamlined procedures. As discussed, Petitioner's generalized claims and requests throughout the Petition are unsupported by evidence or analysis. To the extent Petitioner repeats earlier arguments that the Commission fully considered and rejected, and raises no relevant new arguments that warrant consideration, the Order on Reconsideration finds that the Petition fails to identify any material error, omission, or reason warranting reconsideration of the *2016 Foreign Ownership Report and Order.*

7. Finally, the Order on Reconsideration notes that Petitioner's *ex parte* submission does not cure the Petition's deficiencies. (Petitioner sent ''Reply Comments'' via email to a number of recipients, including members of the Commission. The Commission treated these ''Reply Comments'' as an *ex parte* submission for the purpose of enabling full consideration of the record. However, Petitioner's ''Reply Comments'' to the Petition were not properly filed in accordance with the Commission's rules.) Petitioner's *ex parte* submission does not state with particularity the respects in which Petitioner believes the Commission's action in the *2016 Foreign Ownership Report and Order* should be changed; relies on arguments that the Commission fully considered and rejected in the *2016 Foreign Ownership Report and Order;* and fails to identify any material error, omission, or reason warranting reconsideration. (To the extent Petitioner raises issues related to other matters he has pending before the Commission, those matters were not addressed in the Order on Reconsideration.) Accordingly, for the reasons stated above, the Petition is dismissed pursuant to section 1.429 of the Commission's rules.

Ordering Clauses

8. Accordingly, *it is ordered* that, pursuant to sections 5(c) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 155(c), 405, and sections 0.51, 0.61, 0.261, 0.283, 1.429(c), and 1.429(l) of the Commission's rules, 47 CFR 0.51, 0.61, 0.261, 0.283, 1.429(c), 1.429(l), the Petition for Reconsideration filed by William J. Kirsch in this proceeding *is dismissed.*

9. *It is further ordered* that, pursuant to section 1.103 of the Commission's rules, 47 CFR 1.103, this Order *is effective* upon release. Applications for review under section 1.115 of the Commission's rules, 47 CFR 1.115, may be filed within thirty days of the date of public notice of this Order.

Federal Communications Commission.

Troy Tanner,

Deputy Chief, International Bureau.

[FR Doc. 2017–14644 Filed 7–12–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF537

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sablefish by non-CDQ vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2017 sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 2017, through 2400 hrs, A.l.t., December 31, 2017.

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

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

The 2017 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 541 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 non-CDQ sablefish trawl ITAC in the Bering Sea subarea of the BSAI has been reached. Therefore, NMFS is requiring that sablefish caught with non-CDQ vessels using trawl gear in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting retention of sablefish by non-CDQ vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 6, 2017.

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

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

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

Dated: July 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–14686 Filed 7–10–17; 11:15 am]

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Proposed Rules

Federal Register
Vol. 82, No. 133
Thursday, July 13, 2017

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR PART 630

RIN 3206–AN49

Administrative Leave, Investigative Leave, Notice Leave, and Weather and Safety Leave

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management proposes to issue new regulations on the granting and recording of administrative leave, investigative leave, notice leave, and weather and safety leave. The Administrative Leave Act of 2016 created these new categories of statutorily authorized paid leave and established parameters for their use by Federal agencies. The regulations will provide a framework for agency compliance with the new statutory requirements.

DATES: Comments must be received on or before August 14, 2017.

ADDRESSES: You may submit comments, identified by RIN 3206–AN49 using one of the following methods:

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

Email: pay-leave-policy@opm.gov.

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

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

Background

Prior to passage of the Act, agencies granted paid excused absences (often called ''administrative leave'') to employees based on the broad management authority in 5 U.S.C. 301–302, which allows heads of agencies to prescribe regulations for the government of their organizations. This authority does not expressly address excused absence and thus does not set parameters on its use. However, some direction on use of the excused absence authority was provided in Comptroller General decisions and in OPM guidance.

In the sense of Congress provisions in section 1138(b) of the Act, Congress expressed the need for legislation to address concerns that usage of administrative leave had sometimes exceeded reasonable amounts and resulted in significant costs to the Government. Congress wanted agencies to (1) use administrative leave sparingly and reasonably, (2) consider alternatives to use of administrative leave when employees are under investigation, and (3) act expeditiously to conclude investigations and either return the employee to duty or take an appropriate personnel action. Congress also wanted agencies to keep accurate records regarding the use of administrative leave for various purposes.

In drafting the Act, Congress considered an October 2014 report entitled ''Federal Paid Administrative Leave,'' which was prepared by the Government Accountability Office (GAO). (See GAO Report 15–79.) At the request of Congress, GAO examined the paid administrative leave policies at selected Federal agencies, reviewed practices in recording and reporting of paid administrative leave, and described categories of purposes for which large amounts of paid administrative leave have been charged. GAO found that agency policies on administrative leave varied and that some employees were on administrative leave for long periods (primarily due to extended personnel investigations), which had significant cost implications. GAO also found problems in agencies' recording and reporting practices with respect to administrative leave. The GAO report was cited in Congressional committee reports on draft bills addressing the use of administrative leave for Federal employees. (See House Report 114–520, August 25, 2016, accompanying H.R. 4359 and Senate Report 114–292, July 6, 2016, accompanying S. 2450.) Those committee reports also include useful background information on the development of legislation that eventually culminated in the passage of the Administrative Leave Act of 2016.

New Subparts in 5 CFR Part 630

In this proposed regulation, OPM proposes to add three new subparts to 5 CFR part 630 that correspond to the three new statutory sections in 5 U.S.C. chapter 63: Subpart N, Administrative Leave (implementing 5 U.S.C. 6329a); Subpart O, Investigative Leave and Notice Leave (implementing 5 U.S.C. 6329b); and Subpart P, Weather and Safety Leave (implementing 5 U.S.C. 6329c).

Administrative leave is permitted—at an agency's discretion but subject to statutory and regulatory requirements—when an agency determines that no other paid leave is available under other law. Under § 6329a(b)(1), an agency may place an employee on administrative leave for no more than 10 total workdays in any given calendar year.

Investigative leave and notice leave are permitted—at an agency's discretion but subject to statutory and regulatory requirements—when an agency determines that an employee must be removed from the workplace while under investigation or during a notice period (*i.e.,* the period after the employee has received a proposed notice of adverse action before a final decision is made and takes effect). These two types of leave may be used only when an authorized agency official determines, through evaluation of baseline factors, that the continued presence of the employee in the workplace may pose a threat to the employee or others, result in the destruction of evidence relevant to an investigation, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests. Before using these two types of leave, agencies must consider options to avoid or minimize the use of paid leave, such as changing the employee's

duties or work location. Use of investigative leave is subject to time limitations and special approvals for extensions.

Weather and safety leave is permitted—at an agency's discretion but subject to statutory and regulatory requirements, agency policies, and lawful collective bargaining provisions—when an agency determines that employees cannot safely travel to and from, or perform work at, their normal worksite, a telework site, or other approved location because of severe weather or other emergency situations. There are no time limitations with respect to this type of leave.

Both the law and the proposed regulations address recordkeeping and reporting requirements with which agencies must comply. Agencies must keep separate records on each type of leave: Administrative leave, investigative leave, notice leave, and weather and safety leave.

In the latter portion of this Supplementary Information, we present a section-by-section explanation for the regulations in each subpart (N, O, and P).

Effective Date

The Act directs OPM to prescribe (*i.e.,* publish) regulations to carry out the new statutes on administrative leave, investigative leave, notice leave, and weather and safety leave no later than 270 calendar days after the Act's enactment on December 23, 2016—*i.e.,* September 19, 2017. (See 5 U.S.C. 6329a(c)(1), 6329b(h)(1), and section 6329c(d).) The Act further directs that agencies ''revise and implement the internal policies of the agency'' to meet the statutory requirements pertaining to administrative leave, investigative leave, and notice leave no later than 270 calendar days after the date on which OPM issues its regulations. (See 5 U.S.C. 6329a(c)(2) and 6329b(h)(2).) There is no similar agency implementation provision in the law governing weather and safety leave.

When OPM issues final regulations, we intend to specify that the regulations for subparts N and O (dealing with administrative leave and investigative/notice leave, respectively) will take effect 270 days after publication by specifying a separate ''implementation date.'' Consistent with the statutory provisions, agencies will have 270 calendar days following the date of publication of the final regulations to revise and implement internal policies to meet the new requirements. That will give agencies time to develop internal policies and procedures, including necessary changes in recordkeeping and reporting systems. OPM intends to further specify that subpart P (dealing with weather and safety leave) will take effect 30 days after the date of publication of the final regulations. However, we expect to delay enforcing the requirement that agencies separately report weather and safety leave to OPM until the 270th day following publication of the final regulations.

Amendment to Annual and Sick Leave Regulations

In OPM's regulations dealing with general provisions for annual and sick leave (5 CFR subpart B), we propose to remove the second sentence in § 630.206(a), which reads: ''If an employee is unavoidably or necessarily absent for less than one hour, or tardy, the agency, for adequate reason, may excuse him without charge to leave.'' This regulation was not an authority for creating a type of paid time off, but merely recognized the existence of agency authority to provide brief periods of excused absence under Comptroller General decisions.

Now that OPM has authority to regulate the use of administrative leave under 5 U.S.C. 6329a, it is more appropriate for this particular application of administrative leave to be covered under the new regulations. We would expect administrative leave under 5 U.S.C. 6329a to be used rarely, if at all, for the purpose of excusing a tardy employee. We note that weather and safety leave under 5 U.S.C. 6329c may appropriately be used so that, due to weather or other emergency conditions, an agency may allow employees to have a delayed arrival to avoid unsafe travel conditions.

Subpart N—Administrative Leave

§ 630.1401—Purpose and Applicability

Section 630.1401 addresses the purpose of the proposed regulations on administrative leave—*i.e.,* to implement 5 U.S.C. 6329a. It also notes OPM's authority to prescribe regulations to carry out the new statutory provisions, including the appropriate uses and the proper recording of administrative leave. Additionally, this section provides that subpart N applies to employees, as defined at 5 U.S.C. 2105, who are employed in executive branch agencies, but does not apply to intermittent employees.

§ 630.1402—Definitions

Section 630.1402 provides definitions of terms for purposes of subpart N. Explanations regarding certain definitions are provided below.

We define *administrative leave* to mean paid leave authorized at the discretion of an agency that is provided without loss or reduction in pay, other leave, or service credit and that is exclusive of leave authorized under any other provision of statute or Presidential directive. Thus, for example, a back pay correction may provide for retroactive pay for a nonduty period when a separation is later found to be erroneous. Such a granting of retroactive pay is not a granting of administrative leave under 5 U.S.C. 6329a, since it is authorized under the back pay law and regulations. Also, the 5 days of excused absence granted by the Presidential memorandum of November 14, 2003, for employees returning from active military duty is not considered administrative leave under this subpart. We also clarify that administrative leave excludes periods when the employee is engaged in activities that qualify as official hours of work, such as attendance at an agency town hall meeting.

We provide that the term *agency* refers to an executive agency of the Federal Government. As required by 5 U.S.C. 6329a(a)(2)(c), the General Accountability Office is excluded from this definition, and thus from coverage by subpart N. When used in the context of an agency making determinations or taking actions, ''agency'' refers to the agency head or management officials who are authorized (including by delegation) to make a given determination or take a given action.

We define *employee* as an individual who is covered by subpart N as described in § 630.1401(b) and (c). As provided in that section and in 5 U.S.C. 6329a(a)(3)(A), ''employee'' has the meaning used in 5 U.S.C. 2105. As provided in 5 U.S.C. 6329a(a)(3)(B), intermittent employees who do not have an established regular tour of duty during the administrative workweek are excluded from the definition of ''employee,'' and therefore are not covered by the provisions of subpart N. While not expressly addressed in the proposed regulations, we note that certain Presidential appointees in the executive branch are exempt from the leave system under 5 U.S.C. 6301(2)(x)-(xii) and are entitled to pay solely because of their status as officers. Such officers are not placed in leave status for any purpose; thus, subparts N, O, and P do not apply to such officers.

We define *head of the agency* to mean the head of an agency or a designated representative of such agency head who is (1) an agency headquarters-level official reporting directly to the agency head or a deputy agency head and (2) the sole such representative for the

entire agency. This term is used in § 630.1403(a)(5)(i) and (b)(4).

We define *Presidential directive* to mean an Executive order, Presidential memorandum, or official written statement by the President in which the President specifically directs agency heads to provide employees with a paid excused absence under a specified set of conditions. This excludes a Presidential action that (1) merely encourages agency heads to use an agency head authority (*e.g.,* section 6329a) to grant a paid excused absence under certain conditions or (2) leaves them with discretion regarding whether to grant excused absence in a particular scenario or discretion regarding the amount of excused absence to be granted in a particular scenario.

§ 630.1403—Principles and Prohibitions

This section sets out the general principles and prohibited uses of the administrative leave authority under 5 U.S.C. 6329a and subpart N. In developing the general principles, OPM took into account past OPM policy and guidance as well as Comptroller General decisions regarding the use of general administrative leave. In paragraph (a)(1), we list three conditions. To justify any use of administrative leave, one of these conditions must be met. The first condition is that an agency may grant administrative leave when the absence directly relates to the mission of the agency. For example, an agency could grant administrative leave to an employee to attend a professional meeting or perform certain volunteer work when these relate to the agency's mission.

The second condition permits an agency to grant administrative leave when the absence is for an activity officially sponsored or sanctioned by the agency. For example, an agency may grant administrative leave to permit employees to participate in an American Red Cross blood donation drive being conducted in an agency facility.

The third condition permits an agency to grant administrative leave when the agency determines that the absence would be in the interest of the agency or the Government as a whole. For instance, an agency may grant administrative leave to allow an employee to participate in employee wellness or health promotion events (*e.g.,* influenza vaccinations, health screenings, or health education forums) or to ensure that an employee has the opportunity to vote. Also, an agency may grant administrative leave to cover brief periods of tardiness or to provide for early dismissal when it is determined to be in the interest of the agency.

Section 630.1403(a)(5) provides that a determination that an absence satisfies one of the three conditions in § 630.1403(a)(1) must be (1) permitted under policies established by the head of the agency; and (2) reviewed and approved by an official of the agency who is (or is acting) at a higher level than the official making the determination (unless the determination is made by the head or acting head of the agency). The first requirement ensures that agency heads are accountable for adopting policies to ensure appropriate use of administrative leave, consistent with OPM regulations. The second requirement—that administrative leave be approved only after second-level review—should help prevent inappropriate uses and ensure that administrative leave is used sparingly.

Section 630.1403(a)(2) states the principle that administrative leave is not an employee entitlement, but is granted sparingly at the discretion of the agency. Accordingly, employees are not entitled to a certain number of administrative leave hours or days during any specified period, whether biweekly, monthly, or annually.

Section 630.1403(a)(3) states the principle that the appropriate use of administrative leave is for brief periods of time. In most instances, this will be no longer than 1 day; however, exceptions may be approved. For example, an exception is made for times when an employee is subject to an investigation and his or her retention in duty status is inconsistent with the best interests of the Government. In this case, the agency—prior to placing an employee on investigative leave under subpart O of these regulations—must charge administrative leave until expiration of the 10-workday limit described in 5 U.S.C. 6329a(b)(1) and § 630.1404. (See also 5 U.S.C. 6329b(b)(3)(A).)

Section 630.1403(a)(4) states the principle that administrative leave may not be established as an ongoing or recurring entitlement. Accordingly, an agency may not provide a recurring entitlement to administrative leave, for example, on an employee's birthday or on a day following a Thursday holiday. However, an agency may grant administrative leave on an ad hoc basis for an activity or event that may be ongoing or recurring and is in the Government's interest (*e.g.,* influenza vaccinations or blood donation drives).

In addition to the general principles, § 630.1403(b) describes specific prohibited uses of administrative leave. Section 630.1403(b)(1) provides that agencies are prohibited from using administrative leave to mark the memory of a deceased Federal official, which is consistent with the principle underlying the statutory bar in 5 U.S.C. 6105 prohibiting closure of agencies to mark the memory of a deceased Federal official. We note, however, that section 6105 does not constrain the President from exercising his or her authority in 5 U.S.C. 6103(b) to declare a holiday by Executive order in connection with the death of a President. If the President provides excused absence for Federal employees to commemorate the service of a deceased former President, such excused absence is not a granting of administrative leave under 5 U.S.C. 6329a or subpart N, since it is granted under a Presidential directive and is also authorized as a holiday under 5 U.S.C. 6103(b). (The definition of ''administrative leave'' under § 630.1402 excludes paid leave authorized under Presidential directives.)

Section 630.1403(b)(2) prohibits agencies from granting administrative leave to permit an employee to participate in an event for his or her personal benefit or the benefit of an outside organization, unless the participation would satisfy one of the conditions in § 630.1403(a)(1). To permit employees to participate in these events, agencies alternatively may approve employees' requests to adjust their work schedules or to use annual leave, leave without pay, compensatory time off, credit hours, or other earned time off.

Section 630.1403(b)(3) prohibits agencies from granting administrative leave as a reward to recognize the performance or contributions of employees. The proper personnel authorities for recognizing the performance or contributions of employees are cash awards and time-off awards. This prohibition does not affect employee attendance at agency awards ceremonies, since such attendance is considered to be on-duty time in direct support of the agency mission.

Section 630.1403(b)(4) prevents agencies from granting administrative leave to allow employees to engage in volunteer work or other civic activity that is not officially sponsored or sanctioned by the head of the agency, based on the agency's mission or Governmentwide interests. This prohibition bars agencies from providing administrative leave for volunteer and other activities that do not benefit the agency or serve a Governmentwide interest. A Governmentwide interest is generally documented through a statement of

support by the President or the OPM Director. For employees who wish to participate in volunteer activities during basic working hours, agencies alternatively may permit work schedule adjustments or approve use of annual leave, compensatory time off, credit hours, or other earned time off, or may allow employees to take leave without pay. For long-term volunteer work, agencies may approve part-time or job sharing schedules.

§ 630.1404—Calendar Year Limitation

Section 630.1404 addresses the 10-workday calendar year limitation on use of administrative leave imposed by 5 U.S.C. 6329a(b)(1). Paragraph (a) states the limitation and notes that the 10-day limitation carries over when an employee transfers to another covered agency or separates and is reemployed by a covered agency within the same calendar year. For example, if an employee has been granted 6 workdays of administrative leave at one agency and then transfers to another agency, the employee may be granted only 4 more workdays of administrative leave by the gaining agency during the remainder of the calendar year.

Section 630.1404(b) provides for the conversion of the 10-workday calendar year limitation to an aggregate limit on hours in order to facilitate application of the limit to employees on different work schedules. For full-time employees who are not on an uncommon tour of duty under § 630.210, the 10-workday limitation is converted to an 80-hour limitation. For full-time employees with an uncommon tour of duty, the converted calendar year limitation equals the number of hours in the biweekly uncommon tour of duty, averaged as necessary. For example, for an employee with an uncommon tour of 144 hours biweekly, the 10-workday limitation equates to 144 hours. (Note that the regular 80-hour calendar limit multiplied by 144/80 equals 144 hours.) For a part-time employee, the calendar year limitation is prorated based on the number of hours in the employee's tour of duty consistent with the proration of annual and sick leave required by 5 U.S.C. 6302(c). For example, the 10-workday limitation for a half-time employee equates to 40 hours, since 80 hours times 40/80 equals 40 hours.

Section 630.1404(c) provides that the calendar year limitation applies only to administrative leave. The limitation does not apply to investigative leave and notice leave provided under subpart O, weather and safety leave provided under subpart P, or leave provided under other statute or a Presidential directive.

Section 630.1404(d) provides that, in accordance with 5 U.S.C. 6329b(b)(3)(A), if an employee under investigation must be placed on leave and that employee has not yet reached the 10-workday calendar year limitation, administrative leave under subpart N must first be used instead of investigative leave. This is because investigative leave under subpart O may not be used until the employee has exhausted the 10-workday limitation.

Section 630.1404(e) prohibits agencies from granting additional administrative leave until the next calendar year when an employee reaches the calendar year limit. If an employee has reached his or her calendar year limit and a situation arises where the employee might have been granted administrative leave but for the limit, the employee must continue to work or use other appropriate leave (*e.g.,* annual leave), time off, or leave without pay. When an employee is not able to work and is not willing or able to use paid leave or time off, the agency must place the employee in an appropriate type of nonpay status.

§ 630.1405—Administration of Administrative Leave

Section 630.1405(a) provides that the minimum charge increment (fraction of an hour) for administrative leave is the same as the agency uses for annual and sick leave.

Section 630.1405(b) states that administrative leave may be granted only for hours within an employee's tour of duty established for the purposes of charging annual and sick leave, which for full-time employees is either the 40-hour basic workweek, the basic work requirement for employees on a flexible or compressed work schedule, or an uncommon tour of duty pursuant to § 630.210.

Section 630.1405(c) states that agencies may authorize or require administrative leave for a single employee or a category of employees. It also notes that employees do not have an entitlement to administrative leave and, in particular, are not entitled to receive the full calendar year limit each year. Employees receive only the amount of administrative leave granted by the agency, which may be less (but can never be more) than the calendar year limit. This paragraph also notes that employees do not have a right to refuse administrative leave when the agency requires its use.

§ 630.1406—Records and Reporting

This section provides the recordkeeping and reporting requirements regarding administrative leave. Paragraph (a) requires agencies to accurately record use of administrative leave for each employee under two categories—administrative leave used for the purposes of an investigation and administrative leave used for all other purposes. Paragraph (b) requires that agency data systems and data reports submitted to OPM record administrative leave authorized under 5 U.S.C. 6329a and subpart N of these regulations separately from other types of leave and in the two categories noted above. This section also states that agencies must provide information on the granting of administrative leave to the Government Accountability Office as that office requires.

§ 630.1407—Separation or Transfer

Under § 630.1407, agencies must certify, in a manner prescribed by OPM, the number of hours used by an employee in the two administrative leave categories during the current calendar year when the employee transfers to another agency or separates. The employee does not receive a new calendar year limitation upon (1) transfer to another agency or (2) reemployment by a covered agency after a separation within the same calendar year. Thus, the gaining agency must apply the hours reported by the losing agency to the employee's current calendar year limitation.

Subpart O—Investigative Leave and Notice Leave

§ 630.1501—Purpose and Applicability

Section 630.1501(a) states the purpose of subpart O—*i.e.,* to implement 5 U.S.C. 6329b, which allows an agency to provide a separate type of paid leave for employees who are the subject of an investigation or in a notice period. These two new categories are to be known as ''investigative leave'' and ''notice leave.'' Section 630.1501(a) notes that OPM has authority to prescribe implementing regulations under 5 U.S.C. 6329b(h)(1).

Section 630.1501(b) states this subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, excluding an Inspector General or an intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek. This subpart does not apply to employees who are exempt from 5 U.S.C. chapter 63, such as employees of the Federal Aviation Administration (FAA) and Transportation Security Administration (TSA) employees. (Specific laws in title 49 provide that most title 5 provisions, including chapter 63, do not apply to

FAA and TSA employees. See 49 U.S.C. 114(n) and 40122(g)(2).)

Section 630.1501(c) explains this subpart applies to certain employees covered by a special personnel authority in title 38, United States Code, even though that authority would normally allow those employees to be exempted from title 5 leave provisions.

§ 630.1502—Definitions

Section 630.1502 provides definitions of various terms. The definitions align with definitions found in the law. Explanations regarding certain definitions are provided below.

We are defining the term *investigation* to mean an inquiry regarding an employee. Examples of an inquiry may include: (1) An employee's alleged misconduct that could result in an adverse action as described in 5 CFR part 752 or similar authority; (2) security concerns, including (but not limited to) whether the employee should retain eligibility for logical access to agency facilities and systems under the standards established by Homeland Security Presidential Directive (HSPD) 12 and guidance issued pursuant to that directive; or (3) other matters that could lead to disciplinary action.

We are defining the term *investigative entity* consistent with the statutory definition in 5 U.S.C. 6329b(a)(6); however, we are adding language to make clear that an internal investigative unit may be composed of one or more persons, such as supervisors, managers, human resources practitioners, personnel security office staff, workplace violence prevention team members, or other agency representatives.

In the definition of the term *notice period,* we have clarified when the notice period ends. For an employee with respect to whom an adverse action is being taken, the notice period ends on the effective date of the adverse action. For an employee for whom an adverse action is not being taken, the notice period ends on the date on which the agency notifies the employee that no adverse action will be taken.

We are providing a definition of *participating in a telework program,* which term is used in § 630.1503(c)(1)(iii). An employee is considered to be participating in a telework program if the employee is eligible to telework and has an established arrangement with his or her agency under which the employee is approved to participate in the agency telework program, including on a routine or situational basis. Thus, an employee who teleworks on a situational basis is considered to be continuously participating in a telework program even if there are extended periods during which the employee does not perform telework.

We are providing a definition of *telework site,* which is defined as a location where an employee is authorized to perform telework as described in 5 U.S.C. chapter 65, such as an employee's home.

§ 630.1503—Authority and Requirements for Investigative Leave and Notice Leave

Separate from the administrative leave authorized by 5 U.S.C. 6329a and subpart N, new § 630.1503 establishes two new forms of paid leave on which agencies may place employees who are under investigation or who have received a notice of a proposed adverse action. These two new categories are to be known as ''investigative leave'' under § 630.1503(a)(1) and ''notice leave'' under § 630.1503(a)(2). Investigative leave and notice leave are not employee entitlements. Instead they are intended to provide the employing agency with the means of removing an employee from the workplace and keeping the employee away from the workplace while the agency investigates the employee or during the notice period of a proposed adverse action against that employee (or both). The default situation should be that an employee who is being investigated or against whom an adverse action has been proposed will remain in a duty status in his or her regular position during the investigation or notice period. Investigative leave or notice leave should be applied only when the agency makes the required determination that the employee must be removed from the workplace during a period of investigation or during a notice period in order to protect agency facilities or systems, the Federal workforce, or the public from harm. In these circumstances, after the required consideration of other options, an agency may place an employee on investigative leave or notice leave. An agency may also consider requiring an employee who is otherwise telework-eligible and who is currently (or recently) participating in the agency telework program to telework from home or another approved location as an alternative to investigative leave. (Any such assessment, however, will need to take into account whether the employee should retain eligibility for logical access to agency systems under the standards established by Homeland Security Presidential Directive (HSPD) 12 and guidance issued pursuant to that directive).

Section 630.1503(a)(1) states one of the conditions that must be met before an employee may be placed on investigative leave—namely, that the employee is ''the subject of an investigation.''

Section 630.1503(a)(2)(i) authorizes notice leave when an employee is in a notice period. An employee who has not received an advance notice of proposed adverse action under 5 CFR chapter 752 may not be provided notice leave. Section 630.1503(a)(2)(ii) authorizes notice leave, following a placement of an employee on investigative leave, which may be provided after the last day of the period of investigative leave if the agency proposes an adverse action against the employee under 5 CFR chapter 752 or similar authority. This means investigative leave and notice leave may be used consecutively in some instances. Agencies should be mindful, however, of any internal procedures related to the preparation and approval of a proposed adverse action before it is issued. If the agency determines that the employee continues to meet the criteria of § 630.1503(b)(1) and one or more of the options in § 630.1503(b)(2) is not appropriate, the agency may not transition the employee from investigative leave to notice leave until such time as it has issued the notice of proposed adverse action.

Section 630.1503(b) sets forth the limited circumstances under which an agency may place an employee on investigative leave or notice leave, consistent with the statutory requirements in 5 U.S.C. 6329b(b)(2). First, as provided in paragraph (b)(1), the agency has to make a determination that the continued presence of the employee in the workplace while under investigation or in a notice period may pose a threat to the employee or others, result in the destruction of evidence relevant to an investigation, result in loss or damage to Government property, or otherwise jeopardize legitimate Government interests. (See 5 U.S.C. 6329b(b)(2)(A).) This determination is accomplished through an assessment of baseline factors.

Second, as provided in paragraph (b)(2), the agency must consider required options instead of the use of investigative leave or notice leave.

The baseline factors referenced in § 630.1503(b)(1) are identified in § 630.1503(e), but are described at this point in the section-by-section review of the regulations given their essentiality in making a determination under paragraph (b)(1) regarding whether an employee's continued presence in the

workplace is appropriate. Under 5 U.S.C. 6329b(h)(1)(C), OPM is required to prescribe regulations regarding baseline factors. The baseline factors the agency must consider when making a determination under paragraph (b)(1) are: (1) The nature and severity of the employee's exhibited or alleged behavior, (2) the nature of the agency's or employee's work and the ability of the agency to accomplish its mission, and (3) other impacts of the employee's continued presence in the workplace detrimental to legitimate Government interests, including (but not limited to) whether the employee will pose an unacceptable risk to (i) the life, safety, or health of employees, contractors, vendors or visitors to a Federal facility; (ii) the Government's physical assets or information systems; (iii) personal property; (iv) records, including classified, privileged, proprietary, financial or medical records; or (v) the privacy of the individuals whose data the Government holds in its systems.

The baseline factors are to be used as a starting point when determining whether an employee should be placed on investigative leave or notice leave. Each baseline factor should be considered. Agencies should exercise independent, reasonable judgment in evaluating each particular situation. Agencies should consult with their human resources office or their general counsel, or both, to the extent appropriate, before placing an employee on investigative leave or notice leave.

• *Nature and severity of the employee's exhibited or alleged behavior.*

An agency may determine investigative leave and/or notice leave is necessary because of the nature and severity of the employee's exhibited or alleged behavior. The behavior could be the basis for the investigation and/or be the reason for the proposed adverse action. In some cases, however, the behavior may be exhibited during or following an investigation or proposed adverse action. The nature and severity of the behavior may be in the form of danger to the employee or others, or to Government networks, systems, or property.

Examples of possible threats include direct or veiled threats of harm, belligerence, harassing, bullying, or other inappropriate and aggressive behavior. The employee may have made statements and/or engaged in behaviors that have intimidated other employees or management may have determined that statements or behaviors, because of their disturbing nature, have disrupted the workplace. The behavior may be directed at another individual or may involve physical damage to or destruction of Government property or the misuse of agency systems or the data they contain; it could also involve a plan to commit, threat to commit, or attempt to commit such conduct. Examples include but are not limited to assaulting a co-worker, supervisor, or agency client; menacing conduct, such as destruction of furniture or other action that puts another individual in reasonable fear of immediate bodily injury. The nature and severity of the employee's exhibited or alleged behavior may involve agency computer systems and other technologies, as well as data handling and access. Examples could include attempting to gain or actually obtaining unauthorized access to systems disbursing money or to classified information. When appropriate, agencies should work closely with their information systems management and/or cyber security advisors to identify patterns of behavior that may indicate the potential for malicious activity on information systems. The agency should identify any relationship between the perceived threat and the technology that may be vulnerable. These considerations relate to the agency's responsibility to determine internal security practices, which includes developing policies and practices designed to safeguard personnel, property or operations, as well as developing a plan to prevent damage to or loss of agency property.

• *Nature of the work and the ability of the agency to accomplish its mission.*

In determining whether to place an employee on investigative leave and/or notice leave, it is important to consider the relationship between the employee's behavior and his or her ability to perform work successfully and without unreasonable risk to the agency during the investigation or notice period and accomplish his or her duties satisfactorily. Among the considerations would be the nature of the employee's duties, the employee's job level, and/or whether the employee has a supervisory or fiduciary role. An employee's contact with the public and the prominence of his or her position are additional considerations that an agency may evaluate in relationship with the alleged misconduct.

• *Other impacts detrimental to legitimate Government interests, including whether the employee will pose an unacceptable risk to (1) the life, safety, or health of employees, contractors, vendors or visitors to a Federal facility; (2) the Government's physical assets or information systems; (3) personal property; (4) records, including classified, privileged, proprietary, financial or medical records; or (5) the privacy of the individuals whose data the Government holds in its systems.*

This factor represents a broad category that agencies may apply given their individual missions. This could include a range of workplace behaviors and actions that could impede the normal course of work, or have a harmful effect on the safety and order of the workplace. Possible aspects the agency may wish to review in this regard include the extent to which the employee's presence in the workplace or access to agency systems may impair or disrupt agency operations, place systems at risk, harm public confidence in the agency, or otherwise have a detrimental impact on legitimate Government interests. It is advisable for agencies to consult with their legal counsel to determine what situations and circumstances would be detrimental to legitimate Government interests in light of other authorities such as HSPD 12. Differences in agency mission or agency practice, or other internal regulations, may affect this determination.

When considering these baseline factors, agencies should evaluate the duration of the risk; the nature and severity of the potential harm; how likely it is that the potential harm will occur; and how imminent the potential harm is. The agency may not arbitrarily place individuals on investigative leave or notice leave based upon fear of a future risk without engaging in an individualized assessment that establishes that there is a significant risk of substantial harm that cannot be eliminated or reduced by other means.

Section 630.1503(b)(2) requires that the agency consider other options where appropriate to minimize the amount of investigative leave or notice leave provided to an employee, consistent with 5 U.S.C. 6329b(b)(2)(B). Thus, if the agency makes a determination that the continued presence of the employee in the workplace during an investigation of the employee or while the employee is in a notice period meets the criteria of § 630.1503(b)(1), the agency must also consider certain options before placing the employee on investigative leave or notice leave. The options that must be considered are: (1) Assigning the employee to duties in which the employee is no longer a threat, (2) allowing the employee to voluntarily take another type of leave, (3) carrying the employee in absent without leave status if the employee is absent from duty without approval, and (4) curtailing the notice period, consistent with chapter 75 of title 5 of the U.S.

Code and OPM regulations thereunder. The agency may elect to implement one or a combination of these options. Consideration of these options is consistent with adverse action procedures in 5 CFR 752.404(b)(3).

An agency needs to assess whether one or more of the options required to be considered is or are appropriate, and, if so, which is the most appropriate to address concerns about the continued presence of the employee in the workplace and to resolve the safety or security issue(s) presented by the employee. The manager should work closely with the agency's human resources advisors during the process of reviewing the options for consideration. The agency must determine that none of the options is appropriate before placing an employee on investigative leave or notice leave. In addition, agencies may require an employee who is telework-eligible—and has, in fact, been teleworking from home or another approved location—to telework as an alternative to placing the employee on investigative leave if telework will adequately reduce or eliminate the potential for harm.

Section 630.1503(b)(2)(i) sets forth the option of keeping the employee in a duty status by assigning the employee to duties in which the employee does not pose a threat. The duties should be at the same grade level as the employee's current position. The change in duties may also involve a change in the location where the employee works, subject to limitations related to the local commuting area. In considering this alternative in lieu of investigative leave, an agency may consider requiring an employee who participates in a telework program to perform duties from a telework site, as provided in § 630.1503(c). Assigning the employee to other duties (such as a detail assignment) or limiting the employee's access to intranet systems may enable the agency to maintain the safety and security of the workplace while continuing to benefit from the employee's skillset and abilities to further the agency's mission.

Section 630.1503(b)(2)(ii) sets forth the option of allowing the employee to voluntarily take leave (paid or unpaid) or other forms of paid time off, as appropriate under the rules governing each category of leave or paid time off. An employee who is under investigation or in a notice period may elect to take annual leave, sick leave (as appropriate), restored annual leave, or any leave earned under subchapter I of chapter 63, of the United States Code. The employee may also elect to use other paid time off in order to remain in a pay status, including paid time off that is about to expire, such as compensatory time off earned through overtime work, compensatory time off for travel, and credit hours under a flexible work schedule, as appropriate. An employee may elect to take leave or other paid time off for which the employee is eligible on an intermittent basis, as appropriate, during a period of investigative leave or notice leave.

Agencies may not require employees to take accrued leave or other time off as a substitute for investigative leave or notice leave, and may deny employee requests to use advanced leave.

Section 630.1503(b)(2)(iii) sets forth the option of carrying the employee in an absent without leave (AWOL) status, if the employee is absent from duty without approval. If the employee returns to a duty status, the AWOL would end. The agency could then place the employee on investigative leave or notice leave, as appropriate, only after the agency has analyzed the remaining considerations discussed in this section.

Section 630.1503(b)(2)(iv) sets forth the option of curtailing an employee's notice period if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. Under 5 CFR 752.404(d), this same option of curtailing the notice period is provided as an exception to the requirement for a 30 days' advance written notice period. Thus, this exception would shorten the length of the notice period, but the notice period would still not end until the adverse action is effectuated or until the employee is notified that no adverse action will be taken.

Section 630.1503(c) regulates that an agency may require an employee who is already a participant in the agency telework program, to perform duties similar to the duties that the employee performs at the normal worksite through telework as an alternative to placing an employee on investigative leave. This option to require telework is consistent with 5 U.S.C. 6502(c). (Section 6502(c) expressly links to the investigative leave law in 5 U.S.C. 6329b.

Section 6329b also includes references to section 6502(c) in subsections (d)(1)(E) and (f)(1)(F). Thus, OPM is incorporating provisions that implement the section 6502(c) requirements as part of its regulations of section 6329b.) An agency may require an employee to perform telework if the requirement for the employee to telework would not pose a threat to the employee or others, result in the destruction of evidence relevant to an investigation, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests. Furthermore, the agency must determine that (1) the employee is eligible to telework under the eligibility conditions found in 5 U.S.C. 6502(a) and (b) and (2) is actually participating in the agency telework program and it would be appropriate for the employee to perform his or her duties through telework.

Under subsection (c) of 5 U.S.C. 6502, an agency may require telework in lieu of investigative leave if the employee is ''eligible to telework under subsections (a) and (b)'' of that section.

Section 6502(a) is titled ''Telework Eligibility'' and requires agencies to establish policies related to telework eligibility, subject to certain limitations in section 6502(a)(2). Section 6502(b) is titled ''Participation,'' but includes eligibility conditions in paragraph (b)(4). Paragraph (b)(4) states that, except in emergency conditions, telework shall not apply to any employee whose official duties require on a daily basis (every workday) (1) direct handling of secure materials that are inappropriate for telework or (2) on-site activity that cannot be handled at another location. OPM considers the requirement in section 6502(b)(2) to have a written telework agreement to be a procedural requirement related to participation, not an eligibility requirement.

However, based on our understanding of the intent of Congress, we are regulating that the authority to require telework under section 6502(c) applies only to an employee who has been a participant in the telework program during any portion of the 30-day period immediately preceding the commencement of investigative leave (or the commencement of required telework in lieu of the commencement of such leave). Any existing telework agreement will be superseded as necessary in order to comply with an agency's action to require telework under section 6502(c) and § 630.1503(c).

An agency requiring an employee to perform duties through telework is obligated to provide the employee appropriate work assignments and equipment. An agency may determine it is not appropriate for the employee to telework because it would require the employee to access agency files or to contact agency personnel, directly handle secure materials, or perform official duties that cannot be performed at an alternative worksite.

An employee who is required to telework should be issued a notification indicating that he or she is being directed to telework, and the

notification should clarify that any telework agreement is superseded as necessary. Further, the notification should identify expectations and requirements during the period of required telework.

A telework-eligible employee required by an agency to telework under these conditions may be granted leave or other paid time off, as appropriate. An employee who refuses to telework when required by the agency under these conditions and is absent from telework duty without approval may be placed in AWOL status, consistent with agency policies.

Section 630.1503(d)(1) authorizes an agency to return an employee to duty at any time if the agency reassesses its determination to place the employee on investigative leave or notice leave. It also provides that an employee on investigative leave or notice leave must be prepared to report to work at any time during the employee's regularly scheduled tour of duty or must obtain approval of leave to eliminate the possible obligation to report to work if the employee believes that he or she would be unable to report promptly if called. While investigative leave is approved in increments of up to 30 workdays (see § 550.1504(b), (f), and (g)), an employee may be required to return to duty before an employee has reached the applicable 30-workday limit.

Section 630.1503(d)(2) applies to an employee on investigative leave. An agency may reassess its determination that the employee must be removed from the workplace based on the criteria in § 630.1503(b)(1) and its determination that the options in § 630.1503(b)(2) of this section are not appropriate. An agency may also reassess its previous determination to require or not require telework under paragraph (c) of this section.

Section 630.1503(d)(3) applies to an employee on notice leave. An agency may reassess its determination that the employee must be removed from the workplace based on the criteria in § 630.1503(b)(1) and its determination that the options in § 630.1503(b)(2) of this section are not appropriate.

Section 630.1503(d)(4) provides that, while an employee is on investigative leave or notice leave, the employee has an obligation to report promptly to an approved duty location if directed by his or her supervisor. Any failure to so report may be recorded as absent without leave, which can lead to disciplinary action. An employee who anticipates that he or she may be unavailable to report to duty promptly must request scheduled leave or paid time off in advance, in lieu of investigative leave. Given these regulatory requirements, an agency may consider adding language regarding these requirements in the notification regarding the employee's placement on investigative leave.

Section 630.1503(e) describes the baseline factors to be used in making a determination under § 630.1503(b)(1). (See the detailed description of those factors under the discussion of § 630.1503(b)(1) above.)

Section 630.1503(f) provides that agencies must use the same minimum charge increments for investigative and notice leave as it does for annual and sick leave under § 630.206.

§ 630.1504—Administration of Investigative Leave

Section 630.1504 explains that an employee under investigation will remain in a duty status, except when the agency determines that the employee's continued presence in the workplace meets the criteria described in § 630.1503(b)(1) and that none of the options under § 603.1503(b)(2) are appropriate.

Section 630.1504(a) explains that investigative leave may not commence until the employee's use of administrative leave under subpart N has reached the 10-workday calendar year limitation described in 5 U.S.C. 6329a(b)(1) and § 630.1404, as converted to hours under § 630.1404(b), and the agency determines that further investigation of the employee is necessary. The agency may conduct its investigation during the period of administrative leave provided under subpart N.

The limitation of 10 workdays of administrative leave under subpart N is a calendar year aggregate limit. If the 10-workday limit is reached in the calendar year in which the employee is placed on investigative leave, the period of investigative leave may continue into the next calendar year without the employee having to exhaust the 10 workdays of administrative leave permitted for use in the next calendar year. In other words, once triggered and commenced, investigative leave would continue as long as permitted without needing to again meet the requirement to exhaust 10-workday limit on administrative leave in a later calendar year. Agencies are expected to expeditiously work to resolve investigations so that the employee can return to duty or the agency can initiate an appropriate personnel action. If an agency determines that continued investigation of the employee is necessary after the 10-workday limitation of administrative leave has been reached, it must follow the procedures outlined in § 630.1503(b)—*i.e.,* threat determination and consideration of options—before placing the employee on investigative leave for up to 30 workdays.

Section 630.1504(b) provides that an agency may place the employee in an initial period of investigative leave under § 630.1503(a)(1) for a period of not more than 30 workdays. An employee may be placed on investigative leave intermittently. In other words, a period of investigative leave may be interrupted by (1) on-duty service performed under paragraph (b)(2)(i) or (c) of § 630.1503, (2) leave or paid time off in lieu of such service under paragraph (b)(2)(ii) of § 630.1503, or (3) AWOL under paragraph (b)(2)(iii) of § 630.1503.

Section 630.1504(c) requires an agency to provide an employee a written explanation of his or her placement on investigative leave. The written explanation must describe the limitations on the leave placement, including the limitation on the duration of the investigative leave, and include notice that, at the conclusion of the period of investigative leave, the agency must take an action under § 630.1504(d). Furthermore, the agency must include notice that placement on investigative leave for 70 workdays or more is considered a ''personnel action'' in applying the prohibited personnel practices provisions at 5 U.S.C. 2302(b)(8)–(9).

Section 630.1504(d) provides that, not later than the day after the last day of an initial or extended period of investigative leave, an agency must take action to return the employee to regular duty status, take one or more of the actions under § 630.1503(b)(2), propose an adverse action against the employee as provided under law, or extend the period of investigative leave under § 630.1504(f) and (g). The requirement for agencies to take action at the conclusion of the period of investigative leave holds agencies accountable for the amount of paid leave provided to an employee under investigation for alleged misconduct and prevents situations where employees remain on paid leave for long periods of time without active investigation.

Section 630.1504(e) states that an investigation of an employee may continue after the expiration of the initial 30-workday period of investigative leave. Many factors and variables can require longer than 30 workdays for an agency to conduct an investigation, including but not limited to the nature and complexity of the

issue(s), the number of witnesses, the availability of witnesses, and the coordination with other offices who have relevant evidence. If an agency requires more than 30 workdays to conduct its investigation, an extension may be approved by an authorized official. An employee under investigation is not required to be placed on investigative leave; therefore, the investigation may continue even if the employee is returned to regular duty status and is no longer on investigative leave. An agency may extend the period of investigative leave after the initial 30-workday period of investigative leave ends by following the procedures outlined in § 630.1504(f) and (g).

Section 630.1504(f)(1) allows an agency to extend the period of investigative leave for the employee—using increments of 30 workdays for each extension—when approved by the appropriate agency official upon determination that further time is required to conduct a full and fair investigation. It is conceivable that some investigations will be more involved and complex than others and require more than a 30-workday period of investigation; therefore, agencies must have the ability to extend an employee's period of investigative leave.

Section 630.1504(f)(2) provides that the total period of the extension of investigative leave under § 630.1504(f) may not exceed 90 workdays, which translates into 3 incremental extensions of 30 workdays. This 90-day limit applies to extensions of investigative leave associated with a single initial period of investigative leave. In practice, this means that an employee must first exhaust his or her 10 workdays of administrative leave under 5 U.S.C. 6329a, before the agency may provide an initial period of investigative leave for 30 workdays under § 630.1503(a)(1). If there is a continued need to keep the employee on investigative leave, an authorized official may approve extension of investigative leave in increments of 30 workdays, not to exceed a total 90 workdays for the extensions under § 630.1504(f).

Section 630.1504(f)(3)(i) permits an incremental 30-workday extension under paragraph (f)(1) only if the agency makes a written determination reaffirming that the employee must be removed from the workplace based on the criteria in § 630.1503(b)(1) and that the options in § 630.1503(b)(2) are not appropriate. In other words, the same criteria used for an initial placement on investigative leave must be used in approving any extension.

Section 630.1504(f)(3)(ii) provides that an incremental extension of investigative leave under paragraph (f)(1) of this section is permitted only if approved by the Chief Human Capital Officer (CHCO) of an agency (*i.e.,* a CHCO designated or appointed under 5 U.S.C. 1401, or an equivalent officer), or the designee of the CHCO, after consulting with the investigator responsible for conducting the investigation of the employee. The CHCO approval provides fairness, transparency, and accountability while allowing agency management to be actively involved in the decision to extend investigative leave. Agencies will be responsible for identifying the factors the CHCO or designee must consider in granting an extension of investigative leave and reflecting those considerations in the agency's internal policies. Requests for extensions of investigative leave should be used sparingly (*e.g.,* to accommodate complex investigative processes), and the CHCO or designee must act in a timely manner on such requests for an extension. Agencies should not submit automatic requests for extensions.

Section 630.1504(f)(3)(iii) provides that, in the case of an employee of an Office of Inspector General, an incremental extension under § 630.1504(f)(1) is permitted only if approved by the Inspector General or designee (rather than the CHCO or designee) after consulting with the investigator responsible for conducting the investigation of the employee. However, as an alternative, the Inspector General may request that the head of the agency designate an official of the agency within which the Office of Inspector General is located to approve an extension of investigative leave for employees in that office.

Section 630.1504(f)(4) requires that in delegating authority to a designated official to approve an incremental extension as described in § 630.1504(f)(3) of this section, an agency must pay heed to the designation guidance issued by the CHCO Council under 5 U.S.C. 6329b(c)(3), except that, in the case of approvals for an employee of an Office of Inspector General (OIG), an agency must pay heed to the designation guidance issued by the Council of the Inspectors General on Integrity and Efficiency under 5 U.S.C. 6329b(c)(4)(B). Adherence to this designation guidance ensures that the designee authorized to approve an extension of investigative leave is at a sufficiently high level within the OIG or the agency, as applicable, to make an impartial and independent determination regarding the extension. Agencies should be aware, however, that this involvement could potentially disqualify the individual from serving as the deciding official in any subsequent adverse action.

Section 630.1504(g) provides that after reaching the maximum number of extensions of investigative leave under § 630.1504(f), an official authorized to approve an extension under § 630.1504(f)(3) may approve further incremental extensions of investigative leave for periods of 30 workdays for each extension. Those approvals must be based on the same criteria used to approve the initial period of investigative leave and the extensions under § 630.1504(f). While agencies must be allowed to take the time needed to conduct a full and fair investigation of the employee, agencies are not permitted to keep an employee on investigative leave indefinitely. Therefore, not later than 5 business days after granting each further extension of investigative leave, the agency must submit a report documenting the further extension of investigative leave to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, along with any other committees of jurisdiction.

The agency report must contain: (1) The title, position, office or agency subcomponent, job series, pay grade, and salary of the employee; (2) a description of the duties of the employee; (3) the reason the employee was placed on investigative leave; (4) an explanation as to why the employee meets the criteria described in § 630.1503(b)(1) and why the agency is not able to temporarily reassign the employee to different duties within the agency under § 630.1503(b)(2); (5) in the case of an employee required to telework under 5 U.S.C. 6502(c) during the investigation, the reasons that the agency required the employee to telework and the duration of the teleworking requirement; (6) the status of the investigation of the employee; (7) the certification by an investigative entity that additional time is needed to complete the investigation of the employee and an estimate of the amount of time that is necessary to complete the investigation of the employee; and (8) in the case of a completed investigation of the employee, the results of the investigation and the reason the employee remains on investigative leave. While not required to be included in the report, agencies should be prepared to explain their decision not to require a telework-eligible employee to telework during the period of investigation.

Section 630.1504(h) provides an agency may not further extend a period of investigative leave of an employee on or after the date that is 30 calendar days after the completion of the investigation of the employee by an investigative entity. After investigative leave is ended, the agency must take action under § 630.1504(d).

Section 630.1504(i) explains that, pursuant to new 5 U.S.C. 6329b(g), and for purposes of 5 U.S.C. chapter 12, subchapter II, and section 1221, and recourse to the Office of Special Counsel, placement on investigative leave under this subpart for a period of 70 workdays or more shall be considered a personnel action in applying the prohibited personnel practices provisions at 5 U.S.C. 2302(b)(8) or (9). Previously, an employee had no means to contest an agency decision to place him or her on administrative leave for a reason proscribed at 5 U.S.C. 2302(b)(8) or (9), given that the employee continued to receive pay. This provision provides independent review for employees who have been on investigative leave for at least 70 workdays and who allege conduct prohibited under 5 U.S.C. 2302(b)(8) or (9). Consistent with current case law, the placement on investigative leave or notice leave is not an adverse action.

Section 630.1504(j) explains the conversion of workdays to hours applicable in this subpart. The limitations based on workdays (*i.e.,* the 30-workday increments in paragraphs (b), (f), and (g) of this section and the 70-workday limit in paragraph (i) of this section) must be converted to hours, taking into account the different workdays that can apply to employees under different work schedules.

Section 630.1504(j)(1) applies to a full-time employee (including an employee on a regular 40-hour basic workweek or a flexible or compressed work schedule under 5 U.S.C. chapter 61, subchapter II, but excluding an employee on an uncommon tour of duty). Based on an 8-hour workday, the 30-workday increment is converted to 240 hours. The 30-workday increment is the equivalent of 6 calendar weeks of investigative leave. The 70-workday limit is converted to 560 hours.

Section 630.1504(j)(2) applies to a full-time employee with an uncommon tour of duty under § 630.210. The 30-workday increment is converted to three times the number of hours in the biweekly uncommon tour of duty (or the average biweekly hours for uncommon tours for which the biweekly hours vary over an established cycle). The 30-workday increment is the equivalent of 6 calendar weeks of investigative leave. The 70-workday limit is converted to a number of hours derived by multiplying the hours equivalent of 30 workdays (for a given uncommon tour) times the ratio of 70 divided by 30.

Section 630.1504(j)(3) applies to a part-time employee. The calendar year limit is prorated based on the number of hours in the officially scheduled part-time tour of duty established for purposes of charging leave when absent (*e.g.,* for a part-time employee who has an officially scheduled half-time tour of 40 hours in a biweekly pay period, the 30-workday increment is converted to 120 hours, which is half of 240 hours (the 30-workday increment for full-time employees)). The proration is consistent with the proration of annual and sick leave required under 5 U.S.C. 6302(c).

§ 630.1505—Administration of Notice Leave

Section 630.1505(a) provides that notice leave may commence only after an employee has received written notice of a proposed adverse action. There is no requirement that the employee exhaust his or her 10 workdays of administrative leave under 5 U.S.C. 6329a(b) and § 630.1405 before the employee may be placed on notice leave.

Section 630.1505(b) provides that the placement of an employee on notice leave shall be for a period not longer than the duration of the notice period.

Section 630.1505(c) provides that, if an agency places an employee on notice leave, the agency must provide the employee a written explanation regarding the placement of the employee on notice leave. The written explanation must provide information on the employee's notice period and include a statement that the notice leave will be provided only during the notice period.

§ 630.1506—Records and Reporting

Section 630.1506(a) requires an agency to maintain an accurate record of the placement of an employee on investigative leave or notice leave by the agency. The specific information that must be kept in agency records is identified, consistent with the requirements in 5 U.S.C. 6329b(f). OPM may add additional recordkeeping requirements as it deems appropriate.

Section 630.1506(b)(1) requires an agency to make a record kept under § 630.1506(a) available, upon request, to any committee of jurisdiction, to OPM, to the Government Accountability Office, and as otherwise required by law. However, § 630.1506(b)(2) provides that any action to make a record available is subject to other applicable laws, Executive orders, and regulations governing the dissemination of sensitive information related to national security, foreign relations, or law enforcement matters.

Section 630.1506(c)(1) requires agencies to properly record the granting of investigative leave and notice leave. In agency data systems and in data reports submitted to OPM, an agency must record investigative leave and notice leave under 5 U.S.C. 6329b and this subpart as categories of leave separate from other types of leave. The leave must be recorded as either investigative leave or notice leave, as applicable.

GAO found in its 2014 report that agency policies on paid administrative leave differ across agencies, including the way agencies record paid administrative leave. These proposed regulations provide clear guidance on the use of administrative leave, which, in turn, will promote more consistent recording and documentation of various categories of administrative leave. In order to accurately measure the use of paid administrative leave across Federal agencies, agencies must have a consistent method of documenting the use of administrative leave. Specifically, agencies must properly record administrative leave and distinguish it from leave that is otherwise authorized by other statutory provisions, such as military leave, bone marrow/organ donor leave, and court leave. Without proper recording of leave taken, it is difficult to determine how much administrative leave is actually being used and to hold agencies accountable for its use.

Therefore, for recording purposes, OPM is creating two new categories to record leave granted under 5 U.S.C. 6329b: (1) Investigative leave and (2) notice leave. Investigative leave and notice leave must be recorded on an hourly basis (*i.e.,* hours or fractions of an hour), not to exceed the limitations outlined in § 630.1504.

Section 630.1506(c)(2) requires agencies to provide information to the Government Accountability Office as that office requires in order to submit reports to specified Congressional committees required under section 1138(d)(2) of Public Law 114–328. These reports must be submitted not later than 5 years after December 23, 2016, and every 5 years thereafter.

Subpart P—Weather and Safety Leave

§ 630.1601—Purpose and Applicability

Section 630.1601(a) addresses the purpose of the proposed regulations on

weather and safety leave—*i.e.,* to implement 5 U.S.C. 6329c, which created a new category of paid leave that applies when weather and safety conditions prevent employees from safely traveling to or safely performing work at an approved location due to an act of God, a terrorist attack or other applicable conditions. Unlike the previous administrative leave used for weather-related incidents, OPM now has the authority to prescribe regulations to carry out the new statutory provisions, including the appropriate uses and the proper recording of weather and safety leave. Additionally, § 630.1601(b) provides that subpart P applies to employees, as defined at 5 U.S.C. 2105, who are employed in executive branch agencies, but does not apply to intermittent employees.

§ 630.1602—Definitions

Section 630.1602 provides definitions of various terms used in subpart P. The definitions align with the definitions found in the law.

The statute at 5 U.S.C. 6329c(b)(1) uses the term ''act of God.'' We define *act of God* for purposes of subpart P as an act of nature such as hurricanes, tornadoes, floods, wildfires, earthquakes, landslides, snowstorms, and avalanches. While this definition covers only natural disasters, weather and safety leave may also be authorized for other conditions that prevent employees from safely traveling to or safely performing work at an approved location (for example, agency-specific emergencies such as a building fire, power outage, or burst water pipes).

The statute at 5 U.S.C. 6329c(a)(1) defines ''*agency*'' as an Executive agency of the Federal Government as described in 5 U.S.C. 105, including the Department of Veterans Affairs, but excluding the Government Accountability Office. The definition of *agency* in § 630.1602 follows the statutory definition except that we did not note the inclusion of the Department of Veterans Affairs since that agency is already included by way of 5 U.S.C. 105. We also state that when ''agency'' is used in the context of an agency making determinations or taking actions, it means the agency head or management officials who are authorized (including by delegation) to make a given determination or take a given action.

We define *employee* as an individual who is covered by subpart P, as provided in § 630.1601(b) and (c).

We define *participating in a telework program* to refer to a telework-eligible employee who has an established arrangement with his or her agency under which the employee is approved to participate in the agency telework program, including on a routine or situational basis. Thus, an employee who teleworks on a situational basis is considered to be continuously participating in a telework program even if there are extended periods during which the employee does not perform telework. This term is used in § 630.1605(a).

We define *telework site* as a location where an employee is authorized to perform telework as authorized under 5 U.S.C. chapter 65, such as an employee's home.

We define *weather and safety leave* as paid leave provided under the authority of 5 U.S.C. 6329c and subpart P.

§ 630.1603—Authorization

Section 630.1603 addresses the conditions under which an agency may authorize weather and safety leave—*i.e.,* a severe weather event or other emergency that prevents an employee from safely traveling to or safely performing work at an approved work location.

§ 630.1604—OPM and Agency Responsibilities

Section 630.1604(a) addresses OPM's responsibility to prescribe regulations and guidance related to the appropriate use of weather and safety leave, including guidance on dismissal/closure policies and procedures related to such leave. Such guidance will deal not only with when it is appropriate to provide weather and safety leave, but also when other workplace flexibility options (including other leave, telework, and flexible work schedules) should be utilized instead of weather and safety leave. In the past, OPM has issued dismissal/closure policies and procedures focused on the Washington, DC, area where OPM, through longstanding practice, has exercised responsibility for issuing operating status announcements in emergency situations. (This responsibility involves taking the lead in coordinating with municipal and regional officials—*e.g.,* National Weather Service, the District of Columbia, suburban governments, Departments of Transportation, public transportation providers, public utilities, and law enforcement. This coordination is designed to avoid dramatic disruptions of the highway and mass transit systems.) After issuing final regulations on weather and safety leave, OPM intends to issue Governmentwide guidance on dismissal/closure policies and procedures to assist agencies in complying with the weather and safety leave regulations and to promote the use of consistent terminology throughout the Government.

Also, § 630.1604(a) states that when OPM issues any operating status announcement for the Washington, DC, area, the specific policies and procedures communicated with that announcement must be consistent with OPM regulations and Governmentwide guidance on closures and dismissals.

Section 630.1604(b) describes agency responsibilities to (1) establish policies and procedures related to weather and safety leave that are consistent with OPM regulations and guidance and (2) use terminology required by OPM-issued Governmentwide guidance for any operating status announcements issued by an agency (for a specific location).

§ 630.1605—Telework and Emergency Employees

Section 630.1605 provides exclusions to the granting of weather and safety leave when an employee is eligible for and participating in an agency telework program or is designated as an ''emergency employee.''

- *Telework employees*

Section 630.1605(a)(1) states that agencies may not grant weather and safety leave to employees who are participating in a telework program and who are not prevented from safely working at an approved telework site. This implements the statutory provision at 5 U.S.C. 6329c(b) that prescribes that weather and safety leave may be provided when employees are prevented from safely traveling to or safely performing work ''at an [*i.e.,* any] approved location.'' Employees who are eligible to telework are typically not prevented from performing work at their approved telework site (*e.g.,* home) because they are not required to work at their regular worksites. Accordingly, when employees have the ability to telework, they are not considered to be prevented from performing work at an approved location. This regulatory condition for the granting of weather and safety leave is not contingent on the condition being included in the employee's telework agreement.

Section 630.1605(a)(2) permits exceptions to the bar on granting weather/safety leave for teleworkers when, in the agency's judgment, the employee was not able to prepare for teleworking and is otherwise not able to perform productive work at the telework site (*e.g.,* due to lack of portable work or equipment problems). An agency may permit an exception to the bar on granting weather/safety leave for

teleworkers when an employee is prepared to telework but is prevented from safely doing so by conditions applicable to the telework site. However, the agency may decide not to approve weather and safety leave to an employee who can safely travel to or safely perform work at a regular worksite even if it is a scheduled telework day for the employee.

Section 630.1605(a)(3) requires the agency to evaluate whether the weather or safety conditions could be reasonably anticipated and whether the employee took reasonable steps (within the employee's control) to prepare for telework (such as by bringing any needed equipment and work home). If the employee failed to make the necessary preparations, the agency may not grant weather and safety leave. In this case, the employee's only options would be to use other appropriate paid leave or paid time off, or leave without pay.

• *Emergency employees*

Section 630.1605(b) provides that agencies may designate emergency employees as necessary for critical agency operations and for whom the general granting of weather and safety leave generally does not apply. Agencies may designate different emergency employees for the various emergencies that may occur, but should designate these employees well in advance of the possible emergencies, to the extent practicable. Emergency employees are expected to report to the agency-designated worksite unless the agency determines that it is unsafe to do so, in which case the agency may allow the employee to telework or work at another location. An agency may also determine that the circumstances justify granting weather and safety leave to emergency employees.

§ 630.1606—Administration of Weather and Safety Leave

Section 630.1606(a) provides that the minimum charge increment for weather and safety leave is the same as the agency uses for annual and sick leave.

Section 630.1606(b) states that weather and safety leave may be granted only for hours within an employee's tour of duty established for the purposes of charging annual and sick leave, which for full-time employees is either the 40-hour basic workweek, the basic work requirement for employees on a flexible or compressed work schedule, or an uncommon tour of duty under § 630.210.

Section 630.1606(c) states that agencies may not grant weather and safety leave for hours during which employees are on other preapproved leave (paid or unpaid) or paid time off. It also provides that an agency should not approve an employee's request to cancel preapproved leave or paid time off if the agency determines that the request is primarily for the purpose of obtaining weather and safety leave.

§ 630.1607—Records and Reporting

This section provides the recordkeeping and reporting requirements regarding weather and safety leave. Agencies are required to keep accurate records on the number of weather and safety leave hours granted to employees and to report this data to OPM in the manner directed.

Executive Order 13563 and Executive Order 12866

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

For the reasons stated in the preamble, OPM proposes to amend part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

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

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

Subpart B—Definitions and General Provisions for Annual and Sick Leave

§ 630.206 [Amended]

■ 2. In § 630.206, remove the second sentence in paragraph (a).

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

Subpart N—Administrative Leave

Sec.

630.1401 Purpose and applicability.
630.1402 Definitions.
630.1403 Principles and prohibitions.
630.1404 Calendar year limitation.
630.1405 Administration of administrative leave.
630.1406 Records and reporting.
630.1407 Separation or transfer.

Subpart N—Administrative Leave

§ 630.1401 Purpose and applicability.

(a) This subpart implements 5 U.S.C. 6329a, which allows an agency to provide a separate type of paid leave, on a limited basis, for general purposes not covered by other types of leave authorized by other provisions of law. Section 6329a(c) authorizes OPM to prescribe regulations to carry out the statutory provisions on administrative leave, including regulations on the appropriate uses and the proper recording of this leave.

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

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

§ 630.1402 Definitions.

In this subpart:

Administrative leave means paid leave authorized at the discretion of an agency under 5 U.S.C. 6329a (and not authorized under any other provision of statute or Presidential directive) to cover periods within an employee's tour of duty when the employee is not engaged in activities that qualify as official hours of work, which is provided without loss of or reduction in:

(1) Pay;

(2) Leave to which an employee is otherwise entitled under law; or

(3) Credit for time or service.

Agency means an Executive agency as defined in 5 U.S.C. 105, excluding the Government Accountability Office. When the term ''agency'' is used in the context of an agency making determinations or taking actions, it means the agency head or management

officials who are authorized (including by delegation) to make the given determination or take the given action.

Employee means an individual who is covered by this subpart, as described in § 630.1401(b) and (c).

Head of the agency means the head of an agency or a designated representative of such agency head who is an agency headquarters-level official reporting directly to the agency head or a deputy agency head and who is the sole such representative for the entire agency.

OPM means the Office of Personnel Management.

Presidential directive means an Executive order, Presidential memorandum, or official written statement by the President in which the President specifically directs agency heads to provide employees with a paid excused absence under a specified set of conditions. This excludes a Presidential action that merely encourages agency heads to use an agency head authority (*e.g.,* section 6329a) to grant a paid excused absence under specified conditions or that leaves the amount of excused absence to be granted in specified conditions subject to agency head discretion.

§ 630.1403 Principles and prohibitions.

(a) *General principles.* In granting administrative leave, an agency must adhere to the following general principles:

(1) Administrative leave may be granted (subject to the requirements of paragraph (a)(5) of this section) only when:

(i) The absence is directly related to the agency's mission;

(ii) The absence is officially sponsored or sanctioned by the agency; or

(iii) The absence is in the interest of the agency or of the Government as a whole.

(2) Administrative leave is not an entitlement, but is an agency discretionary authority that should be used sparingly, consistent with the sense of Congress expressed in section 1138(b)(2) of Public Law 114–328.

(3) Administrative leave is appropriately used for brief or short periods of time—usually for not more than 1 workday. An incidence of administrative leave lasting more than 1 workday may be approved when determined to be appropriate by an agency. For example, a longer period would be appropriate when the employee is subject to an investigation and his or her retention in duty status is inconsistent with the best interests of the Government, and investigative leave under subpart O of this part is not available because the 10-workday period described in 5 U.S.C. 6329a(b)(1) has not yet expired. (See 5 U.S.C. 6329b(b)(3)(A).)

(4) Administrative leave may not be established (via agency policy or negotiation) as an ongoing or recurring entitlement based on meeting a set of conditions.

(5) A determination that an absence satisfies one of the conditions in paragraph (a)(1) of this section must be:

(i) Permitted under policies established by the head of the agency; and

(ii) Reviewed and approved by an official of the agency who is (or is acting) at a higher level than the official making the determination—unless there is no higher-level official in the agency.

(b) *Specific prohibited uses.* An agency may not grant administrative leave—

(1) To mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105);

(2) To participate in an event for the employee's personal benefit or the benefit of an outside organization unless the participation would satisfy one or more of the conditions in paragraph (a)(1) of this section;

(3) As a reward to recognize the performance or contributions of an employee or group of employees (*i.e.,* in lieu of a cash award or a time-off award); or

(4) To engage in volunteer work or other civic activity that is not officially sponsored or sanctioned by the head of the agency, based on the agency's mission or Governmentwide interests.

§ 630.1404 Calendar year limitation.

(a) *General.* Under 5 U.S.C. 6329a(b), during any calendar year, an agency may place an employee on administrative leave for no more than 10 workdays. In applying this calendar year limitation, administrative leave used in different agencies must be aggregated. The limitation is not separately applied to each agency that employed the employee during the calendar year. (See also § 630.1407.)

(b) *Conversion to a limitation on hours.* This 10-workday calendar year limitation is converted to an aggregate limit on hours, taking into account the different workdays that can apply to employees under different work schedules, as follows:

(1) For a full-time employee (including an employee on a regular 40-hour basic workweek or a flexible or compressed work schedule under 5 U.S.C. chapter 61, subchapter II, but excluding an employee on an uncommon tour of duty), the calendar year limitation is 80 hours;

(2) For a full-time employee with an uncommon tour of duty under § 630.210, the calendar year limitation is equal to the number of hours in the biweekly uncommon tour of duty (or the average biweekly hours for uncommon tours for which the biweekly hours vary over an established cycle);

(3) For a part-time employee, the calendar year limit is prorated based on the number of hours in the officially scheduled part-time tour of duty established for purposes of charging leave when absent (*e.g.,* for a part-time employee who has an officially scheduled half-time tour of 40 hours in a biweekly pay period, the calendar year limitation is 40 hours, which is half of the 80-hour limitation for full-time employees).

(c) *Applicable hours.* The calendar year limitation described in this section applies only to administrative leave authorized under this subpart.

(d) *Use for investigations.* If an employee is under an investigation that would result in placement on investigative leave under subpart O of this part but for the fact that the employee has not yet reached the calendar year limitation in this section, the agency must first use administrative leave for purposes of the investigation until the employee's calendar year limitation is reached, consistent with 5 U.S.C. 6329b(b)(3) and § 630.1504(a)(1).

(e) *After limit is reached.* When an employee reaches the calendar year limitation, an agency may not grant additional administrative leave during the remainder of that calendar year. If a situation arises where the employee might have been granted administrative leave under the agency's policies but for the limitation, the employee must instead continue to work or use other appropriate paid leave or time off or leave without pay. If an employee is not able to work and is not willing or able to use another type of paid leave or time off, an agency must place the employee in an appropriate type of nonpay status in order to comply with the calendar year limitation.

§ 630.1405 Administration of administrative leave.

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

(b) Employees may be granted administrative leave only for hours within the tour of duty established for purposes of charging annual and sick leave when absent. For full-time employees, that tour is the 40-hour basic

workweek as defined in 5 CFR 610.102, the basic work requirement established for employees on a flexible or compressed work schedule as defined in 5 U.S.C. 6121(3), or an uncommon tour of duty under § 630.210.

(c) Agencies authorize, and may require, the use of administrative leave by an employee or a category of employees. Employees do not have an entitlement to use administrative leave or to exhaust the permissible 10 workdays per calendar year prescribed under § 630.1404, nor do they have a right to refuse administrative leave when the agency requires its use.

§ 630.1406 Records and reporting.

(a) *Record of placement on leave.* An agency must maintain an accurate record of the placement of an employee on administrative leave by recording leave in one of the following subcategories, as applicable in the case at hand:

(1) Administrative leave used for the purposes of an investigation (as described in § 630.1404(d)); or

(2) Administrative leave used for all other purposes.

(b) *Reporting.* (1) In agency data systems (including timekeeping systems) and in data reports submitted to OPM, an agency must record administrative leave under § 6329a and this subpart as categories of leave separate from other types of leave. Leave under § 6329a and this subpart must be recorded as either administrative leave used for the purposes of an investigation or administrative leave used for all other purposes, as applicable.

(2) Agencies must provide information to the Government Accountability Office as that office requires in order to submit reports to specified Congressional committees required under section 1138(d)(2) of Public Law 114–328, which reports must be submitted not later than 5 years after December 23, 2016, and every 5 years thereafter.

§ 630.1407 Separation or transfer.

When an employee transfers to another agency or separates from Federal service, the losing agency must certify, in a manner prescribed by OPM, the number of administrative leave hours used by an employee during the current calendar year under one of the two subcategories described in § 630.1406(a). Any agency that employs the employee in the same calendar year must apply the hours reported by a losing agency against the employee's current calendar year limitation under § 630.1404.

■ 4. Subpart O is added to read as follows:

Subpart O—Investigative Leave and Notice Leave

Sec.

630.1501 Purpose and applicability.
630.1502 Definitions.
630.1503 Authority and requirements for investigative leave and notice leave.
630.1504 Administration of investigative leave.
630.1505 Administration of notice leave.
630.1506 Records and reporting.

Subpart O—Investigative Leave and Notice Leave

§ 630.1501 Purpose and applicability.

(a) This subpart implements 5 U.S.C. 6329b, which allows an agency to provide separate types of paid leave for employees who are the subject of an investigation or in a notice period. OPM has authority to prescribe implementing regulations under 5 U.S.C. 6329b(h)(1).

(b) This subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, excluding:

(1) An Inspector General; or

(2) An intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek.

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

§ 630.1502 Definitions.

In this subpart:

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

Chief Human Capital Officer or CHCO means the Chief Human Capital Officer of an agency designated or appointed under 5 U.S.C 1401, or the equivalent.

Committee of jurisdiction means, with respect to an agency, each committee of the Senate or House of Representatives with jurisdiction over the agency.

Employee means an individual who is covered by this subpart, as described in § 630.1501(b) and (c).

Investigation means inquiry regarding an employee involving such matters as—

(1) An employee's alleged misconduct that could result in an adverse action as described in 5 CFR part 752 or similar authority;

(2) Security concerns, including whether the employee should retain eligibility for logical access to agency facilities and systems under the standards established by Homeland Security Presidential Directive (HSPD) 12 and guidance issued pursuant to that directive; or

(3) Other matters that could lead to disciplinary action.

Investigative entity means:

(1) An internal investigative unit of an agency granting investigative leave under this subpart, which may be composed of one or more persons, such as supervisors, managers, human resources practitioners, personnel security office staff, workplace violence prevention team members, or other agency representatives;

(2) The Office of Inspector General of an agency granting investigative leave under this subpart;

(3) The Attorney General; or

(4) The Office of Special Counsel.

Investigative leave means leave in which an employee who is the subject of an investigation is placed, as authorized under 5 U.S.C. 6329b (and not authorized under any other provision of law), which is provided without loss of or reduction in:

(1) Pay;

(2) Leave to which an employee is otherwise entitled under law; or

(3) Credit for time or service.

Notice leave means leave in which an employee who is in a notice period is placed, as authorized under 5 U.S.C. 6329b (and not authorized under any other provision of law), which is provided without loss of or reduction in:

(1) Pay;

(2) Leave to which an employee is otherwise entitled under law; or

(3) Credit for time or service.

Notice period means a period beginning on the date on which an employee is provided notice, as required under law, of a proposed adverse action against the employee and ending—

(1) On the effective date of the adverse action; or

(2) On the date on which the agency notifies the employee that no adverse action will be taken.

OPM means the Office of Personnel Management.

Participating in a telework program means an employee is eligible to telework and has an established arrangement with his or her agency under which the employee is approved to participate in the agency telework program, including on a routine or situational basis. Such an employee who teleworks on a situational basis is

considered to be continuously participating in a telework program even if there are extended periods during which the employee does not perform telework.

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

§ 630.1503 Authority and requirements for investigative leave and notice leave.

(a) *Authority.* An agency may, in accordance with paragraph (b) of this section, place an employee on:

(1) Investigative leave, if the employee is the subject of an investigation; or

(2) Notice leave:

(i) If the employee is in a notice period; or

(ii) Following a placement on investigative leave if, not later than the day after the last day of the period of investigative leave:

(A) The agency proposes or initiates an adverse action against the employee; and

(B) The agency determines that the employee continues to meet one or more of the criteria described in paragraph (b)(1) of this section.

(b) *Required determinations.* An agency may place an employee on investigative leave or notice leave only if the agency has:

(1) Determined, after consideration of the baseline factors specified in paragraph (e) of this section, that the continued presence of the employee in the workplace during an investigation of the employee or while the employee is in a notice period, as applicable, may:

(i) Pose a threat to the employee or others;

(ii) Result in the destruction of evidence relevant to an investigation;

(iii) Result in loss of or damage to Government property; or

(iv) Otherwise jeopardize legitimate Government interests; and

(2) Considered the following options (or a combination thereof):

(i) Keeping the employee in a duty status by assigning the employee to duties in which the employee no longer poses a threat, as described in paragraphs (b)(1)(i) through (iv) of this section;

(ii) Allowing the employee to voluntarily take leave (paid or unpaid) or paid time off, as appropriate under the rules governing each category of leave or paid time off;

(iii) Carrying the employee in absent without leave status, if the employee is absent from duty without approval; and

(iv) For an employee subject to a notice period, curtailing the notice period if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, consistent with 5 CFR 752.404(d)(1); and

(3) Determined that none of the options under paragraph (b)(2) of this section is appropriate.

(c) *Telework alternative for investigative leave.* (1) Consistent with 5 U.S.C. 6502(c), if an agency would otherwise place an employee on investigative leave, the agency may require the employee to perform, at a telework site, duties similar to the duties that the employee normally performs if:

(i) The agency determines that such a requirement would not pose a threat, as described in paragraphs (b)(1)(i) through (iv) of this section;

(ii) The employee is eligible to telework under the eligibility conditions set forth in 5 U.S.C. 6502(a) and (b)(4);

(iii) The employee has been participating in a telework program under the agency telework policy during some portion of the 30-day period immediately preceding the commencement of investigative leave (or the commencement of required telework in lieu of such leave under this paragraph (c), if earlier); and

(iv) The agency determines that teleworking would be appropriate.

(2) For purposes of paragraph (c)(1) of this section, an employee is considered to be eligible to telework if the agency determines the employee is eligible to telework under agency telework policies described in 5 U.S.C. 6502(a) and is not barred from teleworking under the eligibility conditions described in 5 U.S.C. 6502(b)(4). Any telework agreement established under 5 U.S.C. 6502(b)(2) must be superseded as necessary in order to comply with an agency's action to require telework under 5 U.S.C. 6502(c) and paragraph (c)(1) of this section.

(3) If an employee who is required to telework under paragraph (c)(1) of this section is absent from telework duty without approval, an agency may place the employee in absent without leave status, consistent with agency policies.

(d) *Reassessment and return to duty.* (1) An employee may be returned to duty at any time if the agency reassesses its determination to place the employee on investigative leave or notice leave. An employee on investigative leave or notice leave must be prepared to report to work at any time during his or her regularly scheduled tour of duty or, if the employee anticipates a possible inability to report promptly, must obtain approval of leave in advance of the date or dates that the employee would not be available to report.

(2) For an employee on investigative leave, an agency may reassess its determination that the employee must be removed from the workplace based on the criteria in paragraph (b)(1) of this section and may reassess its determination that the options in paragraph (b)(2) of this section are not appropriate. An agency may reassess its previous determination to require or not require telework under paragraph (c) of this section.

(3) For an employee on notice leave, an agency may reassess its determination that the employee must be removed from the regular worksite based on the criteria in paragraph (b)(1) of this section and may reassess its determination that the options in paragraph (b)(2) of this section are not appropriate.

(4) When an employee is placed on investigative leave or notice leave, the employee must be available to report promptly to an approved duty location if directed by his or her supervisor. Any failure to so report may result in the employee being recorded as absent without leave, which can be the basis for disciplinary action. An employee who anticipates that he or she may be unavailable to report promptly must request scheduled leave or paid time off in advance, as provided under paragraph (b)(2)(ii) of this section, to avoid being recorded as absent without leave.

(e) *Baseline factors.* In making a determination regarding the criteria listed under paragraph (b)(1) of this section, an agency must consider the following baseline factors:

(1) The nature and severity of the employee's exhibited or alleged behavior;

(2) The nature of the agency's or employee's work and the ability of the agency to accomplish its mission; and

(3) Other impacts of the employee's continued presence in the workplace detrimental to legitimate Government interests, including whether the employee will pose an unacceptable risk to:

(i) The life, safety, or health of employees, contractors, vendors or visitors to a Federal facility;

(ii) The Government's physical assets or information systems;

(iii) Personal property;

(iv) Records, including classified, privileged, proprietary, financial or medical records; or

(v) The privacy of the individuals whose data the Government holds in its systems.

(f) *Minimum charge.* An agency must use the same minimum charge increments for investigative and notice leave as it does for annual and sick leave under § 630.206.

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

§ 630.1504 Administration of investigative leave.

(a) *Commencement.* Investigative leave may not be commenced until:

(1) The employee's use of administrative leave under subpart N of this part has reached the 10-workday calendar year limitation described in 5 U.S.C. 6329a(b)(1) and § 630.1404, as converted to hours under § 630.1404(b); and

(2) The agency determines that further investigation of the employee is necessary.

(b) *Duration.* The agency may place the employee on investigative leave for an initial period of not more than 30 workdays per investigation. An employee may be placed on investigative leave intermittently—that is, a period of investigative leave may be interrupted by:

(1) On-duty service performed under § 630.1503(b)(2)(i) or (c);

(2) Leave or paid time off in lieu of such service under § 630.1503(b)(2)(ii); or

(3) Absence without leave under § 630.1503(b)(2)(iii).

(c) *Written explanation of leave.* If an agency places an employee on investigative leave, the agency must provide the employee a written explanation regarding the placement of the employee on investigative leave. The written explanation must:

(1) Describe the limitations of the leave placement, including the duration of leave;

(2) Include notice that, at the conclusion of the period of investigative leave, the agency must take an action under paragraph (d) of this section;

(3) Include notice that placement on investigative leave for 70 workdays or more is considered a ''personnel action'' for purposes of the Office of Special Counsel's authority to act, in applying the prohibited personnel practices provisions at 5 U.S.C. 2302(b)(8)–(9) (see paragraph (i) of this section).

(d) *Agency action.* Not later than the day after the last day of an initial or extended period of investigative leave, an agency must:

(1) Return the employee to regular duty status;

(2) Take one or more of the actions under § 630.1503(b)(2);

(3) Propose or initiate an adverse action against the employee as provided under law; or

(4) Extend the period of investigative leave if permitted under paragraphs (f) and (g) of this section.

(e) *Continued investigation.* Investigation of an employee may continue after the expiration of the initial 30 workday period of investigative leave. Investigation of an employee may continue even if the employee is returned to regular duty status and is no longer on investigative leave.

(f) *Extension of investigative leave*—(1) *Increments.* An agency may extend the period of investigative leave using increments of up to 30 workdays for each extension when approved as described in paragraph (f)(3) of this section. The amount of investigative leave used under the final extension may be less than 30 workdays, as appropriate.

(2) *Maximum number of extensions.* Except as provided in paragraph (g) of this section, the total period of extended investigative leave (*i.e.,* in addition to the initial 30-workday period of investigative leave) may not exceed 90 workdays (*i.e.,* 3 incremental extensions of 30 workdays). This 90-day limit applies to extensions of investigative leave associated with a single initial period of investigative leave.

(3) *Approval of extensions.* (i) An incremental extension under paragraph (f)(1) of this section is permitted only if the agency makes a written determination reaffirming that the employee must be removed from the workplace based on the criteria in § 630.1503(b)(1) and that the options in § 630.1503(b)(2) are not appropriate.

(ii) Except as provided by paragraph (f)(3)(iii) of this section, an incremental extension under paragraph (f)(1) of this section is permitted only if approved by the CHCO of an agency, or the designee of the CHCO, after consulting with the investigator responsible for conducting the investigation of the employee.

(iii) In the case of an employee of an Office of Inspector General, an incremental extension under paragraph (f)(1) of this section is permitted only if approved (after consulting with the investigator responsible for conducting the investigation of the employee) by:

(A) The Inspector General or the designee of the Inspector General, rather than the CHCO or the designee of the CHCO; or

(B) An official of the agency designated by the head of the agency within which the Office of Inspector General is located, if the Inspector General requests the agency head make such a designation.

(4) *Designation guidance.* In delegating authority to a designated official to approve an incremental extension as described in paragraph (f)(3) of this section, a CHCO must pay heed to the designation guidance issued by the CHCO Council under 5 U.S.C. 6329b(c)(3), except that, in the case of approvals for an employee of an Office of Inspector General, an Inspector General must pay heed to the designation guidance issued by the Council of the Inspectors General on Integrity and Efficiency under 5 U.S.C. 6329b(c)(4)(B).

(g) *Further extension of investigative leave.* An official authorized under paragraph (f)(3) of this section to approve an incremental extension under paragraph (f)(1) of this section may approve further incremental extensions of 30 workdays (*i.e.,* each extension is individually approved for up to 30 workdays) under this paragraph after an employee has reached the maximum number of extensions of investigative leave under paragraph (f)(2) of this section. An agency may further extend a period of investigative leave only if the agency makes a written determination reaffirming that the employee must be removed from the workplace based on the criteria in § 630.1503(b)(1) and that the options in § 630.1503(b)(2) are not appropriate. Not later than 5 business days after granting each further extension, the agency must submit (subject to § 630.1506(b)) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, along with any other committees of jurisdiction, a report containing:

(1) The title, position, office or agency subcomponent, job series, pay grade, and salary of the employee;

(2) A description of the duties of the employee;

(3) The reason the employee was placed on investigative leave;

(4) An explanation as to why the employee meets the criteria described in § 630.1503(b)(1)(i) through (iv) and why the agency is not able to temporarily reassign the duties of the employee or detail the employee to another position within the agency;

(5) In the case of an employee required to telework under 5 U.S.C. 6502(c) during a period of investigation, the reasons that the agency required the employee to telework under that section and the duration of the teleworking requirement;

(6) The status of the investigation of the employee;

(7) A certification to the agency by an investigative entity stating that additional time is needed to complete the investigation of the employee and providing an estimate of the amount of time that is necessary to complete the investigation of the employee; and

(8) In the case of a completed investigation of the employee, the results of the investigation and the reason that the employee remains on investigative leave.

(h) *Completed investigation.* An agency may not further extend a period of investigative leave on or after the date that is 30 calendar days after the completion of the investigation of the employee by an investigative entity.

(i) *Possible prohibited personnel action.* For purposes of 5 U.S.C. chapter 12, subchapter II, and section 1221, placement on investigative leave under this subpart for a period of 70 workdays or more shall be considered a personnel action for purposes of the Office of Special Counsel in applying the prohibited personnel practices provisions at 5 U.S.C. 2302(b)(8) or (9).

(j) *Conversion of workdays to hours.* In applying this section, the limitations based on workdays (*i.e.,* the 30-workday increments in paragraphs (b), (f), and (g) of this section and the 70-workday limit in paragraph (h) of this section) must be converted to hours, taking into account the different workdays that can apply to employees under different work schedules, as follows:

(1) For a full-time employee (including an employee on a regular 40-hour basic workweek or a flexible or compressed work schedule under 5 U.S.C. chapter 61, subchapter II, but excluding an employee on an uncommon tour of duty), the 30-workday increment is converted to 240 hours and the 70-workday limit is converted to 560 hours;

(2) For a full-time employee with an uncommon tour of duty under § 630.210, the 30-workday increment is converted to three times the number of hours in the biweekly uncommon tour of duty (or the average biweekly hours for uncommon tours for which the biweekly hours vary over an established cycle), and the 70-workday limit is converted to a number of hours derived by multiplying the hours equivalent of 30 workdays (for a given uncommon tour) times the ratio of 70 divided by 30;

(3) For a part-time employee, the calendar year limit is prorated based on the number of hours in the officially scheduled part-time tour of duty established for purposes of charging leave when absent (*e.g.,* for a part-time employee who has an officially scheduled half-time tour of 40 hours in a biweekly pay period, the 30-workday increment is converted to 120 hours, which is half of 240 hours (the 30-workday increment for full-time employees)).

§ 630.1505 Administration of notice leave.

(a) *Commencement.* Notice leave may commence only after an employee has received written notice of a proposed adverse action. There is no requirement that the employee exhaust 10 workdays of administrative leave under 5 U.S.C. 6329a(b) and § 630.1404 before the employee may be placed on notice leave.

(b) *Duration.* Placement of an employee on notice leave shall be for a period not longer than the duration of the notice period.

(c) *Written explanation of leave.* If an agency places an employee on notice leave, the agency must provide the employee a written explanation regarding the placement of the employee on notice leave. The written explanation must provide information on the employee's notice period and include a statement that the notice leave will be provided only during the notice period.

§ 630.1506 Records and reporting.

(a) *Record of placement on leave.* An agency must maintain an accurate record of the placement of an employee on investigative leave or notice leave by the agency, including—

(1) The reasons for initial authorization of the investigative leave or notice leave, including the alleged action(s) of the employee that required investigation or issuance of a notice of a proposed adverse action;

(2) The basis for the determination made under § 630.1503(b)(1);

(3) An explanation of why an action under § 630.1503(b)(2) was not appropriate;

(4) The length of the period of investigative leave or notice leave;

(5) The amount of salary paid to the employee during the period of leave;

(6) The reasons for authorizing the leave, and if an extension of investigative leave was granted, the recommendation made by an investigator as part of the consultation required under § 630.1504(f)(3);

(7) Whether the employee was required to telework under § 630.1503(c) during the period of the investigation, including the reasons for requiring or not requiring the employee to telework;

(8) The action taken by the agency at the end of the period of leave, including, if applicable, the granting of any extension of a period of investigative leave under § 630.1504(f) or (g); and

(9) Any additional information OPM may require.

(b) *Availability of records.* (1) An agency must make a record kept under paragraph (a) of this section available upon request:

(i) To any committee of jurisdiction;

(ii) To OPM;

(iii) To the Government Accountability Office; and

(iv) As otherwise required by law.

(2) Notwithstanding paragraph (b)(1) of this section and § 630.1504(g), the requirement that an agency make records and information on use of investigative leave or notice leave available to various entities is subject to applicable laws, Executive orders, and regulations governing the dissemination of sensitive information related to national security, foreign relations, or law enforcement matters (*e.g.,* 50 U.S.C. 3024(i), (j), and (m) and Executive Orders 12968 and 13526).

(c) *Reporting.* (1) In agency data systems and in data reports submitted to OPM, an agency must record investigative leave and notice leave under § 6329b and this subpart as categories of leave separate from other types of leave. Leave under § 6329b and this subpart must be recorded as either investigative leave or notice leave, as applicable.

(2) Agencies must provide information to the Government Accountability Office as that office requires in order to submit reports to specified Congressional committees required under section 1138(d)(2) of Public Law 114–328, which reports must be submitted not later than 5 years after December 23, 2016, and every 5 years thereafter.

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

Subpart P—Weather and Safety Leave

Sec.

630.1601 Purpose and applicability.
630.1602 Definitions.
630.1603 Authorization.
630.1604 OPM and agency responsibilities.
630.1605 Telework and emergency employees.
630.1606 Administration of weather and safety leave.
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Subpart P—Weather and Safety Leave

§ 630.1601 Purpose and applicability.

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

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

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

§ 630.1602 Definitions.

In this subpart:

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

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

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

OPM means the Office of Personnel Management.

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

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

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

§ 630.1603 Authorization.

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

(a) An act of God;

(b) A terrorist attack; or

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

§ 630.1604 OPM and agency responsibilities.

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

(b) Employing agencies are responsible for:

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

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

§ 630.1605 Telework and emergency employees.

(a) *Telework employees.* (1) Except as provided under paragraph (a)(2) of this section, employees who are participating in a telework program and are able to safely travel to and work at an approved telework site may not be granted leave under § 630.1603. Employees who are eligible to telework and participating in a telework program under applicable agency policies are typically able to safely perform work at their approved telework site (*e.g.,* home), since they are not required to work at their regular worksite.

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

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

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

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

(b) *Emergency employees.* An agency may designate emergency employees who are critical to agency operations and for whom weather and safety leave may not be applicable. To the extent practicable, an agency should designate its emergency employees well in advance in anticipation of the possible occurrence of the conditions set forth in § 630.1603. If the agency wishes to provide for the possibility that an emergency employee could work from an approved telework site in lieu of traveling to the regular worksite in appropriate circumstances, an agency should encourage the employee to enter into a telework agreement providing for that contingency. An agency may designate different emergency employees for the different

circumstances expected to arise from these conditions. Emergency employees must report to work at their regular worksite or another approved location as directed by the agency, unless—

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

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

§ 630.1606 Administration of weather and safety leave.

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

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

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

§ 630.1607 Records and reporting.

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

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

[FR Doc. 2017–14712 Filed 7–12–17; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–139633–08]

RIN 1545–BI18

Transactions Involving the Transfer of No Net Value

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the remaining part of a notice of proposed rulemaking containing proposed regulations that would have required an exchange or distribution of net value for certain corporate formations and reorganizations to qualify for nonrecognition treatment under the Internal Revenue Code (Code). Other parts of the notice of proposed rulemaking were previously adopted as final regulations. The proposed regulations being withdrawn also addressed the treatment of certain distributions not qualifying for tax-free treatment under section 332 of the Code. The proposed regulations being withdrawn would have affected corporations and their shareholders.

DATES: As of July 13, 2017, the proposed revisions to § 1.332–2(b) and (e); the proposed addition of *Example 2* to § 1.332–2(e); the proposed additions of § 1.351–1(a)(1)(iii) and (a)(1)(iv); the proposed addition of *Example 4* to § 1.351–1(a)(2); the proposed amendments to § 1.368–1(a) and (b); the proposed addition of § 1.368–1(f); and the proposed revision to § 1.368–2(d)(1) in the notice of proposed rulemaking (REG–163314–03) that was published in the **Federal Register** (70 FR 11903) on March 10, 2005 are withdrawn.

FOR FURTHER INFORMATION CONTACT: Jean Broderick at (202) 317–6848 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 10, 2005, the Department of the Treasury (the Treasury Department) and the IRS published a notice of proposed rulemaking (REG–163314–03) in the **Federal Register** (70 FR 11903) containing proposed regulations under sections 332, 351, and 368 (2005 Proposed Regulations). The 2005 Proposed Regulations generally would have provided that the non-recognition rules in subchapter C of chapter 1 of subtitle 1 of the Code do not apply unless there is an exchange (or, in the case of section 332, a distribution) of net value (the net value requirement). The 2005 Proposed Regulations also provided that section 332 would apply only if the recipient corporation receives some payment for each class of stock it owns in the liquidating corporation. Finally, the 2005 Proposed Regulations provided guidance on the circumstances in which (and the extent to which) creditors of a corporation are treated as proprietors of the corporation in determining whether continuity of interest is preserved in a potential reorganization (Creditor Continuity of Interest).

On December 12, 2008, the Treasury Department and the IRS adopted the Creditor Continuity of Interest provisions of the 2005 Proposed Regulations as final regulations (TD 9434) published in the **Federal Register** (73 FR 75566). Minor portions of the 2005 Proposed Regulations that reflected statutory changes to sections 332 and 351 were adopted as final regulations as part of a Treasury decision adopting final regulations under sections 334(b)(1)(B) and 362(e)(1) (TD 9759), published in the **Federal Register** (81 FR 17066) on March 28, 2016. The Treasury Department and the IRS have decided to withdraw the remainder of the 2005 Proposed Regulations.

The Treasury Department and the IRS are of the view that current law is sufficient to ensure that the reorganization provisions and section 351 are used to accomplish readjustments of continuing interests in property held in modified corporate form. With respect to section 332, the holdings of *H.K. Porter Co.* v. *Commissioner,* 87 T.C. 689 (1986), *Spaulding Bakeries Inc.* v. *Commissioner,* 27 T.C. 684 (1957), *aff'd,* 252 F.2d 293 (2d Cir., 1958), *H.G. Hill Stores, Inc.* v. *Commissioner,* 44 B.T.A. 1182 (1941), Rev. Rul. 2003–125, 2003–2 C.B. 1243, Rev. Rul. 68–602, 1968–2 C.B. 135, Rev. Rul. 68–359, 1968–2 C.B. 161, and Rev. Rul. 59–296, 1959–2 C.B. 87, continue to reflect the position of the Treasury Department and the IRS.

Drafting Information

The principal author of this withdrawal notice is Jean Broderick of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Partial Withdrawal of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the Treasury Department and the IRS withdraw the proposed revisions to § 1.332–2(b) and (e); the proposed addition of *Example 2* to § 1.332–2(e); the proposed additions of § 1.351–1(a)(1)(iii) and (a)(1)(iv); the proposed addition of *Example 4* to § 1.351–1(a)(2); the proposed amendments to § 1.368–1(a) and (b); the proposed addition of § 1.368–1(f); and the proposed revision to § 1.368–2(d)(1) in the notice of proposed rulemaking (REG–163314–03) that was published in the **Federal Register** (70 FR 11903) on March 10, 2005.

Kirsten B. Wielobob,

Deputy Commissioner of Services and Enforcement.

[FR Doc. 2017–14723 Filed 7–12–17; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0617; FRL–9964–72–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; General Burning Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of State Implementation Plan (SIP) revisions submitted by Utah on January 28, 2013, and July 8, 2015. In the letter accompanying the rule revisions sent to the EPA on July 8, 2015, the Governor stated that no further action is necessary on the January 28, 2013 submittal since it has been superseded. Upon consultation with Utah Department of Air Quality (DAQ) staff, the EPA was informed that this is not accurate. A clarifying letter was sent by the Governor of Utah on June 6, 2017 requesting that the EPA act on both SIP revisions. The submittals request SIP revisions to the State's General Burning rule; a repeal and reenactment of the General Burning rule with changes to applicability, timing, and duration of burning windows, and an amendment to exempt Native American ceremonial burning during restricted burning days.

DATES: Written comments must be received on or before August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0617 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Chris Dresser, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6385, *dresser.chris@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** volume, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and,
- Make sure to submit your comments by the comment period deadline identified.

II. Analysis of the State Submittal

On January 28, 2013, the State of Utah requested that the EPA approve a repeal and reenactment of R307–202, Emission Standards: General Burning. The rule was changed to add an ''Applicability'' section that clarifies that the rule only applies to incorporated communities under the authority of a county or municipal fire authority. Additionally, the 30-day burning windows allowing the burning of material covered under R307–202 were eliminated in the amendment because they were a source of localized air quality impairment. This request was made by several local fire chiefs with support from the Utah State Fire Marshal. Language was also added to the rule that states that no person shall burn under R307–202 when the director of the Division of Air Quality (DAQ) issues a public announcement of a mandatory no-burn period.

The changes made to R307–202 include the following five amendments:

(1) Fire marshals were previously permitted to establish a spring 30-day burn window between March 1 and May 30. The rule amendment expanded the spring burning window for the entire period from March 1 to May 30 for Washington, Kane, San Juan, Iron, Garfield, Beaver, Piute, Wayne, Grand, and Emery counties. The burn window was expanded because fire marshals reported adverse localized air quality conditions within the 30-day burn window because the window was actually compressed to a few days where the Clearing Index was over 500. The Utah DAQ relies on a metric called the Clearing Index, an Air Quality/Smoke Dispersal Index, to determine when ventilation and dispersion are adequate for general burning and as an

input for other air quality decisions throughout Utah. Clearing Index values below 500 are considered poor ventilation and open burning is restricted under these conditions. Expanding the burn period provides added days where the Clearing Index is above 500, thereby improving air quality during the spring burn period.

(2) The spring 30-day burn window has been expanded to the entire burn window from March 30 to May 30 for the remaining portions of the state. The window expansion follows the same rational as item 1 above, that serves to improve air quality during spring burning. The calendar difference between southern and northern counties (covered in items 1 and 2, respectively) is due to climatic differences across the state.

(3) The fall burn window for counties that are in attainment of the national ambient air quality standards (NAAQS) for particulate matter ($PM_{2.5}$ and/or PM_{10}) were permitted to burn from September 15 to October 30. The burn window has been expanded from September 15 to November 15 because the frost dates for those counties are later than October 30. This window is however subject to annual approval by the State Forester.

(4) A new fall burn window has been established for counties that are in nonattainment for the NAAQS for particulate matter ($PM_{2.5}$ and/or PM_{10}) from September 15 to October 30. This period is before the inversion season in northern counties. The burn window was requested by fire marshals in affected counties. This window is however subject to annual approval by the State Forester.

(5) An applicability section was added clarifying that the rule applies to general burning within incorporated communities under the authority of a county or municipal fire authority. This new section was added to address comments received from the State Forester during the public comment period held by the State of Utah. The State Forester was concerned that the public would be confused regarding who has the authority to issue burn permits within different portions of the state. While statutory authority has not changed from when the rule was initially promulgated, this new section was only added for clarity purposes.

The proposed rule revisions capture Utah's restrictions and exemptions for open burning of pollutants to ensure compliance with the Clean Air Act (CAA) NAAQS for $PM_{2.5}$ and PM_{10} consistent with 40 CFR part 50. As part of the most recent January 28, 2013 submittal, Utah DAQ provide a demonstration that the changes made to the General Burning rule would not result in adverse air quality conditions; consistent with the requirements under Section 110(l) of the CAA. The EPA agrees with the analysis completed by Utah and that the rule changes submitted on January 28, 2013, will not adversely impact air quality. The EPA conducted a further review of the effect of an expanded burn window on resulting air quality in nonattainment areas and a copy of this analysis is included in the administrative record. The additional time periods available for burning include the full March 1 to May 30 period and an additional fall burn window of September 15 to October 30. Through a review of air quality and clearing index data from DAQ's Web site, the EPA finds that although elevated 24-hr $PM_{2.5}$ and PM_{10} can occur during these periods, they do not typically occur on days where the clearing index is greater than 500. Elevated PM_{10} has been measured on days within the burn window with a clearing index above 500. However, these events are a result of high winds and resulting re-entrained dust impacting PM_{10} concentrations, conditions under which burn permits would not be issued due to safety concerns. Therefore, the EPA finds that it is unlikely burning would occur in the expanded burn window on days with elevated PM.

Additionally, on July 8, 2015, the State of Utah requested further revisions to R307–202 (Emission Standards: General Burning) that allows Native American tribes to conduct ceremonial burning during restricted burning days when conducted by a ''Native American spiritual advisor'' as defined by the rule. The Utah DAQ submitted a supplementary analysis to the EPA on May 9, 2017 demonstrating that the exemption allowing ceremonial burning during restricted burning days would not result in adverse air quality conditions consistent with the requirements under CAA Section 110(l). The analysis included a calculation of emissions associated with the expected frequency of ceremonial burning, volume of combustible material, and using the appropriate AP–42 emission factors. The emissions for $PM_{2.5}$ and PM_{10} associated with ceremonial burning were estimated to be 0.012 tons per year. To give these values context, from the most recent NEI, emissions of total PM_{10} and $PM_{2.5}$ for all sources in Salt Lake County in 2014 are 18,165 tons and 5,902 tons, respectively. The estimated impact of ceremonial burning is therefore less than 0.0001% of the total PM inventory, and therefore the EPA finds that this exemption would not result in adverse air quality.

III. The EPA's Proposed Action

The EPA is proposing to approve Utah's January 28, 2013 SIP submission, which repeals and reenacts the General Burning provisions in R307–202 with the amendments discussed in Section II. Additionally, the EPA is proposing approval of Utah's July 8, 2015 revisions, which exempts ceremonial burning conducted by a ''Native American spiritual advisor'' during restricted burn days.

IV. Statutory and Executive Orders Review

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 proposed action merely approves state law as meeting federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, Oct. 4, 1993);
- 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).

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).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 27, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2017–14739 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0189; FRL–9964–52–Region 6]

Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Revision of Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Federal Implementation Plan (FIP) that was published in the **Federal Register** on September 27, 2016, to address certain regional haze and visibility transport requirements under the Federal Clean Air Act (the Act, or CAA) for the State of Arkansas. The specific portions of the Arkansas Regional Haze FIP that the EPA is proposing to revise are the compliance dates for the nitrogen oxide (NO_X) emission limits for the Entergy White Bluff Plant (White Bluff) Units 1 and 2, the Entergy Independence Plant (Independence) Units 1 and 2, and the American Electric Power (AEP) Flint Creek Unit 1. EPA is proposing to extend the compliance dates for the NO_X emission limits for these five electric generating units (EGUs) by 21 months to January 27, 2020.

DATES: *Comments:* Comments must be received on or before September 22, 2017.

Public Hearing: We are holding an information session—for the purpose of providing additional information and informal discussion for our proposal, and a public hearing—to accept oral comments into the record, as follows:

Date: Wednesday, August 23, 2017

Time: Information Session: 2:00 p.m.–2:45 p.m.

Public hearing: 3:00 p.m.–7:00 p.m. (including break from 5:00 p.m.–5:30 p.m.)

Please see the **ADDRESSES** section for the location of the hearing in North Little Rock, AR.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0189, at *http://www.regulations.gov* or via email to *R6AIR_ARHaze@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Dayana Medina, (214) 665–7241; *medina.dayana@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* 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).

Hearing location: Arkansas Public Service Commission, Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas 72201–4314.

The public hearing will provide interested parties the opportunity to present information and opinions to us concerning our proposal. Interested parties may also submit written comments, as discussed in the proposal. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. We will not respond to comments during the public hearings. When we publish our final action, we will provide written responses to all significant oral and written comments received on our proposal. To provide opportunities for questions and discussion, we will hold an information session prior to the public hearing. During the information session, EPA staff will be available to informally answer questions on our proposed action. Any comments made to EPA staff during an information session must still be provided orally during the public hearing, or formally in writing within 30 days after completion of the hearings, in order to be considered in the record. At the public hearings, the hearing officer may limit the time available for each commenter to address the proposal to three minutes or less if the hearing officer determines it to be appropriate. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. Any person may provide written or oral comments and data pertaining to our proposal at the public hearings. Verbatim English language transcripts of the hearing and written statements will be included in the rulemaking docket.

FOR FURTHER INFORMATION CONTACT: Dayana Medina, (214) 665–7241; *medina.dayana@epa.gov.*

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

I. Background

On September 27, 2016, we published a rule titled ''Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal

Implementation Plan'' (Arkansas Regional Haze FIP or FIP) addressing certain requirements of the Regional Haze Rule and interstate visibility transport.[1] Among other things, the final FIP established NO_X emission limits for White Bluff, Independence, and Flint Creek, and required compliance with these emission limits within 18 months of the effective date of our final action (*i.e.,* April 27, 2018).

The State of Arkansas, through the Arkansas Department of Environmental Quality (ADEQ), submitted a petition to the EPA dated November 22, 2016, seeking reconsideration and an administrative stay of specific portions of the final Arkansas Regional Haze FIP pursuant to section 307(d)(7)(B) of the CAA and section 705 of the Administrative Procedure Act (APA). Petitions dated November 23, 2016, seeking reconsideration and administrative stay of the FIP were also submitted by Entergy Arkansas Inc., Entergy Mississippi Inc., and Entergy Power LLC (collectively ''Entergy'') and the Arkansas Electric Cooperative Corporation (AECC), which are owners of Flint Creek, White Bluff, and Independence. The Energy and Environmental Alliance of Arkansas (EEAA), which is an ad-hoc association that has members who own or operate Flint Creek, White Bluff, and Independence, also submitted a petition dated November 28, 2016, seeking reconsideration and administrative stay of the FIP.[2] The petitioners raised a number of issues, including EPA's decision to shorten the compliance dates for the NO_X emission limits for Flint Creek, White Bluff, and Independence from the proposed 3 years to 18 months in the final FIP without specifically requesting comment on the shorter 18-month compliance dates. Entergy, AECC, and EEAA also stated in their petitions for reconsideration and administrative stay that the 18-month NO_X compliance dates required by the FIP are infeasible and do not allow sufficient time for the owners and operators of the facilities to develop, plan, obtain prevention of significant deterioration (PSD) permits, install, tune, and test the low NO_X burner control equipment that is needed to comply with the NO_X emission limits.

In a letter dated April 14, 2017, EPA announced the convening of a proceeding to reconsider the appropriate compliance dates for the NO_X emission limits for Flint Creek, White Bluff, and Independence.[3] EPA determined that the petitioners raised objections to the NO_X compliance timeframes that were impracticable to raise during the comment period and that are of central relevance to the rule under 307(d)(7)(B) of the Clean Air Act (CAA). EPA also published a notice in the **Federal Register** on April 25, 2017, administratively staying the effectiveness of the 18-month NO_X compliance dates in the FIP for a period of 90 days.[4] In that action, we also stated that reconsideration would allow for additional public comment on the 18-month NO_X compliance deadlines. We are proposing to revise the NO_X compliance deadlines for the 5 affected units as part of the reconsideration process and requesting comment on our proposed decision to extend these dates by 21 months.

We also note that in a letter dated June 7, 2017, the State committed to develop and submit to EPA this summer a Regional Haze SIP revision to replace our FIP, which would include NO_X requirements for the EGUs. Our action today revising the compliance dates for NO_X does not preclude the State from submitting and EPA acting on a SIP revision addressing that element. As we have previously stated,[5] we remain committed to work with the State on a SIP revision that would replace our FIP. We are proposing a revision to our FIP at this time to address the impending April 27, 2018 NO_X compliance deadlines required by the FIP for Flint Creek, White Bluff, and Independence, prior to the anticipated SIP submittal by the State and to provide the owners of the units with regulatory certainty regarding their compliance deadlines.

II. Petitions for Reconsideration of the NO_X Compliance Deadlines and EPA's Proposed Action

We have carefully reviewed and taken into consideration the petitions for reconsideration and administrative stay submitted by the State of Arkansas, Entergy, AECC, and EEAA regarding the 18-month compliance date for the NO_X emission limits at Flint Creek Unit 1, White Bluff Units 1 and 2, and Independence Units 1 and 2. We have determined that the petitions for reconsideration raise certain arguments related to the 18-month NO_X compliance dates that have merit, provide site-specific information regarding the infeasibility of an 18-month compliance date, and warrant proposing a revision to the FIP with regard to the 18-month NO_X compliance deadlines.

The State of Arkansas, Entergy, AECC, and EEAA stated in their petitions that EPA proposed a 3-year NO_X compliance deadline for the affected units and that we did not indicate in the proposed rulemaking that we were considering a shorter compliance date. Additionally, the petitioners stated that EPA failed to provide an opportunity to comment on the owners' ability to comply with a shortened compliance date. EEAA pointed out that if EPA would have afforded the owners and operators adequate notice and opportunity to comment on the shortened NO_X compliance deadlines, they would have provided comment and supporting information concerning why an 18-month compliance deadline is inadequate. The petitioners also argued that because we did not provide notice and an opportunity to comment on shortened compliance deadlines, the 18-month NO_X compliance deadlines are not a logical outgrowth of the FIP proposal.

We agree with the petitioners that our FIP proposal did not specifically state that we were soliciting public comment on shorter NO_X compliance dates for the five units. We recognize that the wording in our proposed rulemaking was not clear with respect to this issue, but our intent was to solicit public comment on all aspects of our FIP proposal. This includes even those aspects of our FIP proposal for which we did not specifically state that we were soliciting public comment. However, in consideration of the petitioners' comments, we are proposing to extend the NO_X compliance dates for the 5 affected units and providing notice and opportunity for public comment on the proposed revisions to the compliance dates. Other issues raised by the petitioners concerning the inadequacy of an 18-month NO_X compliance deadline are discussed in the subsections that follow.

A. Petitioners' Claims Regarding the Infeasibility of 18-Month NO_X Compliance Deadlines

Entergy's petition, which was incorporated by reference by both AECC and EEAA, asserted that the comments

[1] 81 FR 66332; *see also* 81 FR 68319 (October 4, 2016) (correction).

[2] Please see the docket for this rulemaking for a copy of the petitions for reconsideration and administrative stay submitted by ADEQ, Entergy, AECC, and EEAA.

[3] See letter dated April 14, 2017, regarding ''Convening a Proceeding for Reconsideration of Final Rule, 'Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan,' published September 7, 2016. 81 FR 66332.'' A copy of this letter is included in the docket, Docket ID No. EPA–R06–OAR–2015–0189.

[4] 82 FR 18994.

[5] 81 FR 66333.

submitted by environmental groups,[6] on which we based our decision to shorten the NO_X compliance deadlines for the five units, relied on an expert report and a 10-year-old vendor association report that did not take into account site-specific considerations that could affect the installation and deployment time of low NO_X burner controls.[7] EEAA also asserted that the 10-year old vendor association report did not take into account permitting considerations, a company's internal project development and approval process, site-specific factors, or reliability concerns. Entergy and EEAA asserted that the 18-month compliance deadline for installation of the low NO_X burner and separated overfire air equipment at White Bluff and Independence is not feasible because it does not allow the owners and operators sufficient time to prepare and submit an air permit application, obtain the permit through the public notice and participation process, comply with the affected companies' internal planning and prudence review procedures, complete a request for proposal process, select a vendor, procure equipment, schedule outages, install the control equipment, conduct equipment tuning and testing, and train staff on the operation of the control equipment. AECC also asserted in its petition that the 18-month NO_X compliance deadlines for the five units are extremely difficult, if not impossible, to meet and are unprecedented.

Entergy and EEAA pointed out that the installation of the NO_X control equipment requires that the company first develop a prevention of significant deterioration (PSD) permit application for each facility and submit to ADEQ. Entergy's petition explains that the processing of the permit application by ADEQ is expected to take no less than 6—8 months, but could take longer depending on a number of factors outside of the company's control. The State's permitting process involves a public notice and participation process, and the length of time it takes to issue the permit is dependent upon the volume and complexity of the comments received as well as on ADEQ's resources. Additionally, Entergy pointed out that any member of the public could appeal issuance of the final permit to the Arkansas Pollution Control and Ecology Commission and, absent additional regulatory proceedings, could result in an automatic stay of the permit pending resolution of the appeal. Entergy stated in its petition that it has obtained the necessary PSD permit for installation of the NO_X control equipment at White Bluff, but is still in the process of developing the PSD permit application for Independence.

Entergy and EEAA also explained in their petitions that the affected companies have internal planning procedures that affect their schedule for installation of the NO_X controls. These internal planning procedures include risk and prudence reviews, as well as a process for obtaining competitive bids from multiple vendors. Entergy asserted that these internal planning procedures are in place to attempt to ensure cost recovery, and that circumventing these procedures places the owners at risk of making investments that the Arkansas Public Service Commission later determines are not in the public interest and therefore not eligible for cost recovery. Entergy explained that once a vendor is selected, the company must negotiate the final contract and that it would then take the vendor approximately 8 months to design and fabricate the equipment. Each unit will then have to be taken offline for approximately 6–7 weeks for installation of the control equipment. Entergy explained that after installation of the control equipment, the company must conduct boiler tuning, performance verification testing, a final phase of fine-tuning of the equipment, staff training, and must validate operating configurations to determine which combinations result in the best load profile. In its petition for reconsideration, Entergy stated that in light of these site-specific considerations, the owners and operators need 3 years to install the control equipment and comply with their NO_X emission limits. Entergy and EEAA stated that requiring the affected units to comply with shorter NO_X compliance deadlines would force the owners to undertake an accelerated schedule that involves non-compliance with company prudence procedures and increases the cost and financial risk incurred by the owners, with no guarantee that the units will actually be able to meet their NO_X emission limits by the shorter compliance date.

AECC asserted in its petition that a 3-year NO_X compliance deadline is as expeditiously as practicable for the affected units, especially taking into consideration that the four units at White Bluff and Independence are within the same regional transmission organization system that would be affected by outages related to installation of the NO_X control equipment. AECC also asserted that a NO_X compliance schedule less than 3 years would require an accelerated construction schedule such that the controls could not be optimally scheduled to minimize the cost of replacement energy and system reliability could potentially be compromised. EEAA expressed similar concerns, stating that an 18-month compliance schedule for the 5 affected units is inadequate for the installation of the controls, in particular when required for multiple units that represent a significant amount of baseload generating capacity within the State.

B. EPA's Assessment of Petitioners' Claims and EPA's Proposed Action

We agree with the petitioners that the comments submitted by environmental groups on which we based our decision to shorten the NO_X compliance deadlines for the five units relied on an expert report and a 10-year-old vendor association report that did not take into account site-specific considerations that could affect the installation and deployment time of low NO_X burner equipment. Since our proposed rulemaking did not specifically state a range of compliance dates that we were soliciting comment on for the NO_X emission limits for the five units, we accept the owners' claims that they did not anticipate that we might finalize shorter compliance dates and therefore did not comment on site-specific factors that affect their ability to meet shorter compliance dates. We also acknowledge that the owners of the affected units raise a valid point that the compliance date needs to account for the PSD permitting process required for the installation of the NO_X control equipment, including the possibility of delays in the regulatory permitting process that could affect the owners' ability to meet an 18-month compliance deadline.

We acknowledge that we were not aware of and thus could not take into consideration the companies' internal planning and prudence review procedures when we shortened the NO_X compliance deadlines. We find that the steps and processes Entergy, AECC, and EEAA discussed in their petitions that must be taken by the owners and operators of the affected units in order to install and begin operating the NO_X control equipment are reasonable and

[6] See comments submitted by Earthjustice, National Parks Conservation Association, and Sierra Club, dated August 7, 2015, on the Arkansas Regional Haze FIP proposal. These comments can be found in Docket No. EPA–R06–OAR–2015–0189.

[7] AECC and EEAA's petitions address Flint Creek, White Bluff, and Independence. Entergy's petition focuses on White Bluff and Independence, but many of the arguments raised by Entergy are also applicable to Flint Creek.

warrant proposing to extend the NO_X compliance dates for the affected units. It is not our intent to require a compliance timeframe that could force the owners to expedite the planning, installation, and deployment of the NO_X control equipment in such a way that would require omitting company planning procedures and other important processes the owners and operators have in place for projects such as this. We also believe it is prudent to establish compliance deadlines that allow the installation of the NO_X controls to be optimally scheduled so as to not compromise system reliability, especially taking into consideration that four of the affected units are within the same regional transmission organization system. Entergy, AECC, and EEAA asserted that 3 years are needed to develop, plan, permit, install, tune, and test the equipment at the affected units, which is consistent with the compliance deadline we proposed in our April 8, 2015 FIP proposal.[8] Additionally, as we noted in the ''Background'' section of this proposed rulemaking, we published a notice in the **Federal Register** on April 25, 2017, administratively staying the effectiveness of the 18-month NO_X compliance deadlines in the FIP for a period of 90 days as part of our reconsideration process for the NO_X compliance deadlines.[9] To also account for the 90 day stay of the effectiveness of these NO_X compliance deadlines, we are proposing to extend the NO_X compliance deadlines for Flint Creek Unit 1, White Bluff Units 1 and 2, and Independence Units 1 and 2 by a total of 21 months to January 27, 2020. We believe this is consistent with the requirement under the CAA section 169A(b)(2) and (g)(4) and the Regional Haze Rule under section 51.308(e)(1)(iv) to install and operate BART as expeditiously as practicable, but in no event later than 5 years after approval of the implementation plan revision.

III. Summary of Proposed Action

After carefully considering the petitions for reconsideration of the NO_X compliance deadlines submitted by Arkansas, Entergy, AECC, and EEAA, we are proposing to revise the Arkansas Regional Haze FIP by extending the NO_X compliance deadlines for Flint Creek, White Bluff, and Independence. After carefully considering the information presented by the petitioners and to account for the 90 day stay of the effectiveness of these NO_X compliance deadlines, we are proposing to extend the NO_X compliance deadlines for Flint Creek Unit 1, White Bluff Units 1 and 2, and Independence Units 1 and 2 by a total of 21 months to January 27, 2020. Upon finalization of this proposed action, the reconsideration process for the 18-month NO_X compliance deadlines will conclude.

The revisions to the Arkansas Regional Haze FIP we are proposing at this time are limited to the NO_X compliance dates for the five aforementioned units. We are not proposing to revise any other portions of the FIP in this proposed action. As such, we are not accepting public comment at this time on any issues unrelated to the NO_X compliance dates for these units. However, we note that the reconsideration process under CAA section 307(d)(7)(B) for other portions of the FIP, as discussed in our April 14, 2017 letter, is ongoing.[10] If EPA determines through the ongoing reconsideration process that revisions to other parts of the FIP are warranted, we will propose such revisions in a future rulemaking action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best available retrofit technology, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Nitrogen dioxide, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility.

Dated: June 30, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

Title 40, chapter I, of the Code of Federal Regulations is proposed to be 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 E—Arkansas

■ 2. Amend § 52.173 by revising (c) (7) and (25) to read as follows:

§ 52.173 Visibility protection.

* * * * *

(c) * * *

(c)(7) *Compliance dates for AEP Flint Creek Unit 1 and Entergy White Bluff Units 1 and 2.* The owner or operator of AEP Flint Creek Unit 1 must comply with the SO_2 emission limit listed in paragraph (c)(6) of this section by April 27, 2018, and with the NO_X emission limit listed in paragraph (c)(6) by January 27, 2020. The owner or operator of White Bluff Units 1 and 2 must comply with the SO_2 emission limit listed in paragraph (c)(6) of this section by October 27, 2021, and must comply with the NO_X emission limits listed in paragraph (c)(6) of this section by January 27, 2020.

* * * * *

(c)(25) *Compliance dates for Entergy Independence Units 1 and 2.* The owner or operator of each unit must comply with the SO_2 emission limit in paragraph (c)(24) of this section by October 27, 2021, and with the NO_X emission limits by January 27, 2020.

[FR Doc. 2017–14692 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

[8] 80 FR 18944.

[9] 82 FR 18994.

[10] See letter dated April 14, 2017, regarding ''Convening a Proceeding for Reconsideration of Final Rule, 'Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan,' published September 7, 2016. 81 FR 66332.'' A copy of this letter is included in the docket, Docket ID No. EPA–R06–OAR–2015–0189.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0298; FRL–9964–84–Region 8]

Approval and Promulgation; State of Utah; Salt Lake County and Utah County Nonattainment Area Coarse Particulate Matter State Implementation Plan Revisions to Control Measures for Point Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve certain state implementation plan (SIP) revisions submitted by Utah on January 4, 2016, and certain revisions submitted on January 19, 2017, for the coarse particulate matter (PM_{10}) national ambient air quality standard (NAAQS) in the Salt Lake County and Utah County PM_{10} nonattainment areas. The revisions that the EPA is proposing to approve are located in Utah Division of Administrative Rule (DAR) R307–110–17 and SIP Subsection IX.H.1–4, and establish emissions limits for PM_{10}, nitrogen oxides (NOx) and sulfur dioxide (SO_2) for certain stationary sources in the nonattainment areas. These actions are being taken under section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0298 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: James Hou, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 303–312–6210, *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

a. *Submitting Confidential Business Information (CBI).* Do not submit CBI to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the 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.

b. *Tips for Preparing Your Comments.* When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. Background

Under the 1990 amendments to the CAA, Salt Lake and Utah Counties were designated nonattainment for PM_{10} and classified as moderate areas by operation of law as of November 15, 1990 (56 FR 56694, 56840; November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4, part D, Title I of the Act. As described in section 110 and 172 of the Act, areas designated nonattainment based on failure to meet the PM_{10} NAAQS are required to develop SIPs with sufficient control measures to expeditiously attain and maintain the NAAQS.

On July 8, 1994, the EPA approved the PM_{10} SIP for Salt Lake and Utah Counties (59 FR 35036). The SIP included a demonstration of attainment and various control measures, including emission limits at stationary sources. Because emissions of SO_2 and NO_X contribute significantly to the PM_{10} problem in the area, the SIP included limits on emissions of SO_2 and NO_X in addition to emissions of PM_{10}.

On September 26, 1995, the EPA designated Ogden City as nonattainment for PM_{10} and classified the area as moderate under section 107(d)(3) of the Act (60 FR 38726; July 28, 1995). Subsequently, the EPA approved a clean data determination for the Ogden City nonattainment area on January 7, 2013 (78 FR 885), suspending obligations to submit certain requirements of part D, subparts 1 and 4 of the Act for so long as the area continues to attain.

On July 3, 2002 Utah submitted SIP revisions adopting rule R307–110–10, which incorporated revisions to portions of Utah's SIP Section IX, Part A, and rule R307–110–17, which incorporated revisions to portions of Utah's SIP Section IX Part H. These revisions were approved by the EPA on December 23, 2002 (67 FR 78181). The revisions to Utah's SIP Section IX Part H removed several stationary sources subject to reasonably available control technology (RACT) requirements from the initial list of RACT sources in the Utah County nonattainment area, based on SIP threshold limits for PM_{10}, NOx, and SO_2 of 100 tpy, 200 tpy, and 250 tpy, respectively. In doing so, the number of major stationary sources included in the SIP for the Utah County nonattainment area was reduced from 14 sources to 5 sources. Notably, one of the sources retained in Utah's 2002 SIP was Geneva Steel, which underwent a protracted closure and had largely ceased operations by 2004. In 2005, the PacifiCorp—Lake Side Power Plant was constructed on a portion of the former Geneva Steel facility, utilizing banked emission credits from Geneva Steel's closure.

On January 4, 2016, Utah submitted SIP revisions to R307–110–17 titled ''Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits'' and revisions to Subsection IX.H.1–4. The titles for Subsection IX.H.1–4 include: (1) General Requirements: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM_{10} Requirements; (2) Source Specific Emission Limitations in Salt Lake County PM_{10} Nonattainment/Maintenance Area; (3) Source Specific Emission Limitations in Utah County PM_{10} Nonattainment/Maintenance Area; and (4) Interim Emission Limits and Operating Practices. Additionally, on January 19, 2017, Utah submitted revisions to Subsection IX.H.1–4. Further discussion of the revisions to R307–110–17 and Subsection IX.H.1–4 can be found below.

III. EPA's Evaluation of Utah's SIP

A. R307–110–17

1. Section R307–110–17 incorporates the amendments to Section IX.H into state rules, thereby making them effective as a matter of state law. This is a ministerial provision and does not by itself include any control measures.

B. Subsection IX.H.1–4

1. Subsection IX.H.1. General Requirements: Control Measures for Area and Point Sources, Emission Limits and Operating Practices, PM_{10} Requirements. This section establishes general requirements for record keeping,

reporting, and monitoring for the stationary sources subject to emissions limits under subsections IX.H.2–4. Additionally, this section establishes general refinery requirements, addressing limitations on emitting units common to the refineries in the nonattainment areas. These general refinery requirements include limits at fluid catalytic cracking units, limits on refinery fuel gas, restrictions on liquid fuel oil consumption, requirement for sulfur removal units, and requirements for hydrocarbon flares.

2. Subsection IX.H.2. Source Specific Emission Limitations in Salt Lake County PM_{10} Nonattainment/Maintenance Area. This section establishes specific emission limitations for 14 sources. These sources are Big West Oil Refinery; Bountiful City Light and Power; Central Valley Reclamation Facility; Chevron Products Company; Hexcel Corporation; Holly Refining and Marketing Company; Kennecott Utah Copper (KUC): Bingham Canyon Mine; KUC: Copperton Concentrator; KUC: Power Plant and Tailings Impoundment; KUC: Smelter and Refinery; PacifiCorp Energy: Gadsby Power Plant; Tesoro Refining & Marketing Company; University of Utah; and West Valley Power Holdings, LLC. Major stationary sources were identified based on their potential to emit (PTE) of 100 tons per year (tpy) or more of PM_{10}, NOx, or SO_2. A summary of the current emission limits, for retained sources, is outlined in Table 1 below, and a summary of the proposed new emission limits is outlined in Table 2 below.

TABLE 1—CURRENT SOURCE SPECIFIC EMISSION LIMITATIONS IN THE SALT LAKE COUNTY PM_{10} NONATTAINMENT AREA

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
Amoco Oil Company [1]	PM_{10}	Facility Wide	113 tpy.		
	NO_X	Facility Wide	688 tpy.		
	SO_2	Facility Wide	2,013 tpy.		
Bountiful City Light and Power.	PM_{10}	Facility Wide	1.06 tpy.		
	NO_X	Facility Wide	250 tpy.		
	SO_2	Facility Wide	5.97.		
Central Valley Water Reclamation Facility.	PM_{10}	Facility Wide	0.67 tpy.		
	NO_X	Facility Wide	203.7 tpy.		
	SO_2	Facility Wide	3.95 tpy.		
Chevron Products Company.	PM_{10}	Facility Wide	175 tpy.		
	NO_X	Facility Wide	1,022 tpy.		
	SO_2	Facility Wide	2,578 tpy.		
Flying J [2]	PM_{10}	Facility Wide	22 tpy.		
	NO_X	Facility Wide	278.7 tpy.		
	SO_2	Facility Wide	864.6 tpy.		
Hercules Aerospace Company—Plant #3 [3].					175 MMscf natural gas per year. 10.8 MM pounds of carbon fiber produced per year.
Holly Refining and Marketing Company.	PM_{10}	Facility Wide	0.416 tpd.		
	NO_X	Facility Wide	2.09 tpd.		
	SO_2	Facility Wide	0.31 tpd.		
Kennecott Utah Copper: Bingham Canyon Mine.					Maximum of 30,000 daily miles for waste haul trucks. Fugitive road dust emission controls.
Kennecott Utah Copper: Power Plant.	PM_{10}	Total Power Plant	257 tpy.		
	NO_X	Total Power Plant	5085 tpy.		
	SO_2	Total Power Plant	6219 tpy.		
Kennecott Utah Copper: Tailings Impoundment.					Fugitive dust maintenance program and mitigation procedures.
Kennecott Utah Copper: Smelter.	PM_{10}	Main Stack	400 lb/hr.		
	SO_2 (daily avg)	Main Stack	5,700 lb/hr.		
	SO_2	Acid Plant Tail Gas	1200 lb/hr	650 ppmvd.	
	NO_X	Smelter Powerhouse	20.8 lb/hr	80/9 ppmdv.	
	PM_{10}	Rotary Concentrate Dryer Stack.	4.2 lb/hr.		
	NO_X	Rotary Concentrate Dryer Stack.	7.1 lb/hr	67 ppmdv.	
Kennecott Utah Copper: Refinery.	PM_{10}	Total Refinery	51.9 tpy.		
	SO_2	Total Refinery	162.6 tpy.		
	NO_X	Total Refinery	121 tpy.		
University of Utah	PM_{10}	Source wide	74.3 tpy.		
	NO_X	Source wide	245.8 tpy.		
	SO_2	Source wide	219.3 tpy.		
Utah Power and Light—Gadsby [4].	PM_{10}	Source Wide	61.3 tpy.		
	NO_X	Source wide	2,983 tpy.		

TABLE 1—CURRENT SOURCE SPECIFIC EMISSION LIMITATIONS IN THE SALT LAKE COUNTY PM_{10} NONATTAINMENT AREA—Continued

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
	SO_2	Source wide	67.7 tpy.		

[1] The Amoco Oil Company facility corresponds with the Tesoro Refining and Marketing Company in the proposed emission limits of Table 2.
[2] The Flying J refinery corresponds with the Big West Oil facility in the proposed emission limits of Table 2.
[3] The Hercules Aerospace Company—Plant #3 corresponds with the Hexcel Corporation in the proposed emission limits of Table 2.
[4] Utah Power and Light—Gadsby, corresponds with PacifiCorp—Gadsby in the proposed emission limits of Table 2.

TABLE 2—PROPOSED SOURCE SPECIFIC EMISSION LIMITATIONS IN THE SALT LAKE COUNTY PM_{10} NONATTAINMENT AREA

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
Big West Oil	PM_{10}	Facility Wide	1.037 tons per day (tpd).		
	NO_X	Facility Wide	0.8 tpd.		
	SO_2	Facility Wide	0.6 tpd.		
Bountiful City Light and Power.	NO_X	GT#1	0.6 g NO_X/kW-hr.		
	NO_X	GT#2 and GT#3	7.5 lb NO_X/hr.		
Central Valley Water Reclamation Facility.	NO_X	Facility Wide	0.648 tpd.		
Chevron Products Company.	PM_{10}	Facility Wide	0.715 tpd.		
	NO_X	Facility Wide	2.1 tpd.		
	SO_2	Facility Wide	1.05 tpd.		
Hexcel Corporations					5.50 MMscf natural gas per day. 0.061 MM pounds of carbon fiber produced per day.
Holly Refining and Marketing Company.	PM_{10}	Facility Wide	0.416 tpd.		
	NO_X	Facility Wide	2.09 tpd.		
	SO_2		0.31 tpd.		
Kennecott Utah Copper: Bingham Canyon Mine.					Maximum of 30,000 miles for waste haul trucks per day. Fugitive road dust emission control requirements.
Kennecott Copperton Concentrator.					Requirement to operate a gas scrubber operated in accordance with parametric monitoring.
Kennecott Utah Copper: Power Plant and Tailings Impoundment	PM_{10}	Power Plant Unit #5	18.8 lb/hr.		
	NO_X	Power Plant Unit #5		2.0 ppmdv (15% O_2 dry).	
	NO_X	Power Plant Unit #5 Startup/Shutdown.	395 lb/hr.		
	PM_{10} (Filterable)	Units #1, #2, #3, and #4, Nov 1–Feb 28/29.	0.004 grains/dscf.		
	PM_{10} (Filterable + Condensable).	Units #1,# 2, #3, and #4, Nov 1–Feb 28/29.	0.03 grains/dscf.		
	NO_X	Units #1,# 2, and #3, Nov 1–Feb 28/29.		336 ppmdv (3% O_2).	
	NO_X	Unit #4, Nov 1–Feb 28/29.		336 ppmdv (3% O_2).	
	PM_{10} (Filterable)	Units #1,# 2, and #3, Mar 1–Oct 1.	0.029 grains/dscf.		
	PM_{10} (Filterable + Condensable).	Units #1,# 2, and #3, Mar 1–Oct 1.	0.29 grains/dscf.		
	PM_{10} (Filterable)	Unit #4, Mar 1–Oct 1	0.029 grains/dscf.		
	NO_X	Units #1,# 2, and #3, Mar 1–Oct 1.		426.5 ppmdv (3% O_2).	
	NO_X	Unit #4, Mar 1–Oct 1		384 ppmdv (3% O_2).	
Kennecott Utah Copper: Smelter and Refinery.	PM_{10} (Filterable)	Main Stack	89.5 lb/hr.		
	PM_{10} (Filterable + Condensable).	Main Stack	439 lb/hr.		
	SO_2 (3-hr rolling avg)	Main Stack	552 lb/hr.		
	SO_2 (daily avg)	Main Stack	422 lb/hr.		
	NO_X (daily avg)	Main Stack	154 lb/hr.		
	NO_X	Refinery: Sum of 2 tank house boilers.	9.5 lb/hr.		
	NO_X	Refinery: Combined Heat Plant.	5.96 lb/hr.		
	NO_X	Molybdenum Autoclave Project: Combined Heat Plant.	5.01 lb/hr.		
PacifiCorp Energy: Gadsby Power Plant.	NO_X	Steam Unit #1	179 lb/hr.		

TABLE 2—PROPOSED SOURCE SPECIFIC EMISSION LIMITATIONS IN THE SALT LAKE COUNTY PM_{10} NONATTAINMENT AREA—Continued

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
	NO_X	Steam Unit #2	204 lb/hr.		
	.	Steam Unit #3	142 lb./hr (Nov 1–Feb 28/29).		
	NO_X.				
	NO_X	Steam Unit #3	203 lb/hr (Mar 1–Oct 31).		
Tesoro Refining and Marketing Company.	PM_{10}	Facility Wide	2.25 tpd.		
	NO_X	Facility Wide	1.988 tpd.		
	SO_2	Facility Wide	3.1 tpd.		
University of Utah	NO_X	Boiler #3		9 ppmdv (3% O_2 Dry).	
		Boiler #4a & #4b		9 ppmdv (3% O_2 Dry).	
		Boiler #5a & #5b		9 ppmdv (3% O_2 Dry).	
		Turbine		9 ppmdv (3% O_2 Dry).	
		Turbine and WHRU Duct burner.		15 ppmdv (3% O_2 Dry).	
West Valley Power[5]	NO_X	Sum of all five turbines	1,050 lb/day.		

[5] West Valley Power was not a listed source in the 1994 SIP for the Salt Lake County PM_{10} NAA.

3. Subsection IX.H.3. Source Specific Emission Limitations in Utah County PM_{10} Nonattainment/Maintenance Area. This section establishes specific emission limitations for 6 sources. These sources are Brigham Young University (BYU); Geneva Nitrogen Inc.; PacifiCorp Energy: Lake Side Power Plant; Payson City Corporation: Payson City Power; Provo City Power: Power Plant; and Springville City Corporation: Whitehead Power Plant. Major stationary sources were identified based on their PTE of 100 tons per year (tpy) or more for PM_{10}, NO_X, and SO_2. It is important to note that the SIP threshold of 100 tpy for all three pollutants is less than the previous SIP major stationary source thresholds Utah established in its 2002 SIP revision. The 2002 SIP revision had established major stationary source thresholds for PM_{10}, NO_X, and SO_2 at 100 tpy, 200 tpy, and 250 tpy, respectively. By lowering the SIP threshold to 100 tpy for all three pollutants, three sources are now added into the SIP. These sources are BYU, Payson City Power and PacifiCorp Energy—Lake Side Power Plant. PacifiCorp Energy—Lake Side Power Plant sits on a portion of the former Geneva Steel site. A summary of the current emission limits, for retained sources, is outlined in Table 3 below, and a summary of the proposed new emission limits are outlined in Table 4 below.

TABLE 3—CURRENT SOURCE SPECIFIC EMISSION LIMITATIONS IN THE UTAH COUNTY PM_{10} NONATTAINMENT AREA

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
Geneva Nitrogen Inc: Geneva Plant.	PM_{10}	Prill Tower	0.24 tpd.		
	NO_X	Montecatini Plant	0.389 tpd.		
	NO_X	Weatherly Plant	0.233 tpd.		
Provo City Power: Power Plant.	NO_X	All engines combined	2.45 tpd.		
Springville City Corporation: Whitehead Power Plant.	NO_X	All engines combined	1.68 tpd.		

TABLE 4—PROPOSED SOURCE SPECIFIC EMISSION LIMITATIONS IN THE UTAH COUNTY PM_{10} NONATTAINMENT AREA

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
Brigham Young University.	NO_X	Unit #1[6]	9.55 lb/hr	95 ppmdv (7% O2 Dry).	
	NO_X	Unit #2	37.4 lb/hr	331 ppmdv (7% O2 Dry).	
	SO_2	Unit #2	56.0 lb/hr	597 ppmdv (7% O2 Dry).	
	NO_X	Unit #3	37.4 lb/hr	331 ppmdv (7% O2 Dry).	
	SO_2	Unit #3	56.0 lb/hr	597 ppmdv (7% O2 Dry).	
	NO_X	Unit #4[7]	19.2 lb/hr	127 ppmdv (7% O2 Dry).	
	NO_X	Unit #5	74.8 lb/hr	331 ppmdv (7% O2 Dry).	
	SO_2	Unit #5	112.07 lb/hr	597 ppmdv (7% O2 Dry).	

TABLE 4—PROPOSED SOURCE SPECIFIC EMISSION LIMITATIONS IN THE UTAH COUNTY PM_{10} NONATTAINMENT AREA—Continued

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
	NO_X	Unit #6 [7]	19.2 lb/hr	127 ppmdv (7% O2 Dry).	
Geneva Nitrogen Inc.: Geneva Plant.	PM_{10}	Prill Tower	0.236 tpd..		
	$PM_{2.5}$	Prill Tower	0.196 tpd.		
	NO_X	Montecatini Plant	30.8 lb/hr.		
	NO_X	Weatherly Plant	18.4 lb/hr.		
PacifiCorp Energy: Lakeside Power Plant.	NO_X	Block #1 Turbine/ HRSG Stacks.	14.9 lb/hr.		
	NO_X	Block #2 Turbine/ HRSG Stacks.	18.1 lb/hr.		
Payson City Corporation: Payson City Power.	NO_X	All engines combined	1.54 tpd.		
Provo City Power: Power Plant.	NO_X	All engines combined	2.45 tpd.		
Springville City Corporation: Whitehead Power Plant.	NO_X	All engines combined	1.68 tpd.		

[6] The NO_X limit for Unit #1 is 95 ppm (9.55 lb/hr) until it operates for more than 300 hours during a rolling 12-month period, then the limit will be 36 ppm (5.44 lb/hr). This will be accomplished through the installation of low NO_X burners with Flue Gas Recirculation.
[7] The NO_X limit for Units #4 and #6 is 127 ppm (38.5 lb/hr) until December 31, 2018, at which time the limit will then be 36 ppm (19.2 lb/hr).

4. Subsection IX.H.4. Interim Emission Limits and Operating Practices. R307–110–17 Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits. This section establishes interim emission limits for sources whose new emission limits under Subsections IX.H.2 and 3 are based on controls that are not currently installed, with the provision that all necessary controls needed to meet the emission limits under Subsection IX.H.2 and IX.H.3 shall be installed by January 1, 2019. A summary of the proposed interim emission limits is outlined in Table 5 below.

TABLE 5—PROPOSED INTERIM EMISSION LIMITS AND OPERATING PRACTICES

Source	Pollutant	Process unit	Mass based limits	Concentration based limits	Alternative emission limits
Big West Oil	PM_{10}	Facility Wide	0.377 tpd Oct 1–March 31. 0.407 tpd April 1–Sept 30.		
	SO_2	Facility Wide	2.764 tpd Oct 1–March 31. 3.639 tpd April 1–Sept 30.		
	NO_X	Facility Wide	1.027 tpd Oct 1–Mar 31. 1.145 tpd Apr 1–Sep 30.		
Chevron Products Company.	PM_{10}	Facility Wide	0.234 tpd.		
	SO_2	Facility Wide	0.5 tpd.		
	NO_X	Facility Wide	2.52 tpd.		
Holly Refining and Marketing Company.	PM_{10}	Facility Wide	0.44 tpd.		
	SO_2	Facility Wide	4.714 tpd.		
	NO_X	Facility Wide	2.20 tpd.		
Tesoro Refining and Marketing Company.	PM_{10}	Facility Wide	0.261 tpd.		
	SO_2	Facility Wide	3.699 tpd Nov 1–Feb 28/29. 4.374 tpd Mar 1–Oct 31.		
	NO_X	Facility Wide	1.988 tpd.		

IV. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress (RFP) toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and public hearing.

The Utah SIP revisions that the EPA is proposing to approve do not interfere with any applicable requirements of the Act. The DAR section R307–110–17 and Subsection IX.H.1–4, submitted January 4, 2016, and January 19, 2017 are intended to strengthen the SIP. Therefore, CAA section 110(l) requirements are satisfied.

Specifically, the proposed emission limits for the retained sources in the Salt Lake County nonattainment area will result in a reduction of PM_{10}, SO_2, and NO_X emissions by 10.64 tpd, 12.87 tpd and 29.97 tpd, respectively, when compared to the limits established in the original PM_{10} SIP. Given the large net decrease in emissions from the retained major stationary sources in the Salt Lake County nonattainment area, the proposed action will enhance the area's ability to attain or maintain the NAAQS.

The proposed emissions from Geneva Nitrogen, Provo City Power Plant, and the Springville City Corporation—Whitehead Power Plant are consistent with the 2002 SIP revisions for Utah County. Additionally, this proposed action adds three sources—BYU, Payson City Power and PacifiCorp Energy—Lake Side Power Plant. Both BYU and Payson City Power have been in existence since the original 1994 SIP, and BYU was initially included as a source in the original 1994 SIP, but was removed in 2002. The inclusion of these two sources do not reflect an increase in emissions into the Utah County nonattainment area airshed, but rather reflect a change in the approach of how stationary sources are included into the SIP. PacifiCorp Energy—Lake Side Power Plant is also being added into the SIP, but its addition does not reflect an emissions increase to the nonattainment area because the facility was required to use offsetting emissions, largely made available through the closure of the Geneva Steel facility. The closing of Geneva Steel resulted in the removal of approximately 1,700 tpy PM_{10}, 1,400 tpy SO_2, and 4,200 tpy NO_X from the Utah County airshed. These emission reductions were banked and made available for purchase for future major source construction and modifications. In order to construct the Lakeside Power Plant, banked emission credits were purchased and used at an offset ratio of 1.2:1 (*e.g.* For every 1.0 tpy of emissions allowed at the Lakeside Power Plant, 1.2 tpy of banked emission credits must be spent from the Utah emissions credit offset registry.). In total the Lakeside Power Plant utilized banked emission credits for PM_{10}, SO_2, and NO_X in the amounts of 257 tpy, 66 tpy, and 337 tpy, respectively. Given the offset ratio required for the construction of the Lakeside Power Plant, the inclusion of this source into the SIP does not result in any emissions increase to the Utah County airshed, and actually reflects a net decrease from the 2002 SIP. As a result of the decreased emissions from the closure of the Geneva Steel facility, and the offsetting ratio required to construct the Lake Side Power Plant, the proposed revision to the Utah County PM_{10} SIP will enhance the area's ability to attain or maintain the NAAQS.

V. Summary of Proposed Action and Request for Public Comment

The EPA is proposing approval and requesting public comment on revisions to Administrative Rule R307–110–17 and revisions to Subsection IX.H.1–4 as submitted by the State of Utah on January 4, 2016, and January 19, 2017. These revisions establish emissions limitations and related requirements for certain stationary sources of PM_{10}, NO_X and SO_2, and will therefore serve to continue progress towards attainment and maintenance of the PM_{10} NAAQS in the nonattainment areas. The proposed revisions reflect more stringent emission levels for total emissions of PM_{10}, SO_2, and NO_X for each of the affected facilities, as well as updates the inventory of major stationary sources to accurately reflect the current sources in both the Salt Lake County and Utah County nonattainment areas (*e.g.,* removing sources which no longer exist, or are now covered under an area source rule). The updated list of sources and revised emission limits for the major stationary sources in the two nonattainment areas will serve to enhance both area's ability to attain or maintain the NAAQS.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the DAQ PM_{10} SIP revisions as discussed in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide 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 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, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: June 30, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2017–14748 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2017–0129; FRL–9964–20–Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve for the Entergy R. S. Nelson facility (Nelson) (1) a portion of a revision to the Louisiana Regional Haze State Implementation Plan (SIP) submitted on February 20, 2017; and (2) a revision submitted for parallel processing on June 20, 2017, by the State of Louisiana through the Louisiana Department of Environmental Quality (LDEQ). Specifically, the EPA is proposing to approve these two revisions, which address the Best Available Retrofit Technology requirement of Regional Haze for Nelson for sulfur-dioxide (SO_2) and particulate-matter (PM).

DATES: Written comments must be received on or before August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2017–0129, at *http://www.regulations.gov* or via email to *R6_LA_BART@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Jennifer Huser, *huser.jennifer@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* 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: Jennifer Huser, 214–665–7347, *huser.jennifer@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Jennifer Huser or Mr. Bill Deese at 214–665–7253.

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

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I. Background

A. The Regional Haze Program

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and emit fine particulates ($PM_{2.5}$) (*e.g.,* sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and their precursors (*e.g.,* sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia (NH_3) and volatile organic compounds (VOCs)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that can be seen. $PM_{2.5}$ can also cause serious adverse health effects and mortality in humans; it also contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE), shows that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. In 1999, the average visual range in many Class I areas (*i.e.,* national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States was 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range was less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. CAA programs have reduced some haze-causing pollution, lessening some visibility impairment and resulting in partially improved average visual ranges.

CAA requirements to address the problem of visibility impairment continue to be implemented. In Section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas. On December 2, 1980, the EPA promulgated

regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e.,* ''reasonably attributable visibility impairment.'' These regulations represented the first phase in addressing visibility impairment. The EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues, and the EPA promulgated regulations addressing regional haze in 1999. The Regional Haze Rule revised the existing visibility regulations to add provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in our visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. States were required to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often under-controlled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' (BART). Larger ''fossil-fuel fired steam electric plants'' are one of these source categories. Under the Regional Haze Rule, states are directed to conduct BART determinations for ''BART-eligible'' sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. The evaluation of BART for electric generating units (EGUs) that are located at fossil-fuel fired power plants having a generating capacity in excess of 750 megawatts must follow the ''Guidelines for BART Determinations Under the Regional Haze Rule'' at appendix Y to 40 CFR part 51 (hereinafter referred to as the ''BART Guidelines''). Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides for greater progress towards improving visibility than BART.

B. Our Previous Actions and Our Proposed Action on Louisiana Regional Haze

On June 13, 2008, Louisiana submitted a SIP to address regional haze (2008 Louisiana Regional Haze SIP or 2008 SIP revision). We acted on that submittal in two separate actions. Our first action was a limited disapproval [1] because of deficiencies in the State's regional haze SIP submittal arising from the remand by the U.S. Court of Appeals for the District of Columbia of the Clean Air Interstate Rule (CAIR). Our second action was a partial limited approval/partial disapproval [2] because the 2008 SIP revision met some but not all of the applicable requirements of the CAA and our regulations as set forth in sections 169A and 169B of the CAA and 40 CFR 51.300–308, but as a whole, the 2008 SIP revision strengthened the SIP. On August 11, 2016, Louisiana submitted a SIP revision to address the deficiencies related to BART for four non-EGU facilities. We proposed to approve that revision on October 27, 2016.[3]

On February 10, 2017, Louisiana submitted a SIP revision intended to address the deficiencies related to BART for EGU sources (February 2017 Louisiana Regional Haze SIP or February 2017 SIP revision). We proposed approval of that SIP revision as it pertains to all of the BART-eligible EGUs in the State on May 19, 2017, except for Nelson, which we address herein.[4]

On June 20, 2017, Louisiana submitted a SIP revision with a request for parallel processing, specifically addressing the BART requirements for Nelson. (June 2017 Louisiana Regional Haze SIP or June 2017 SIP revision). This revision, along with the Nelson portion of the February 20, 2017 SIP revision, are the subject of this proposed action. Parallel processing of the June 2017 SIP revision means that, at the same time Louisiana is completing the corresponding public comment and rulemaking process at the state level, we are proposing action on it. Because Louisiana has not yet finalized the June 2017 SIP revision that we are parallel processing, we are proposing to approve this SIP revision in parallel with Louisiana's rulemaking activities. If changes are made to the State's proposed rule after the EPA's notice of proposed rulemaking, such changes must be acknowledged in the EPA's final rulemaking action. If the changes are significant, then the EPA may be obligated to withdraw our initial proposed action and re-propose. If there are no changes to the parallel-processed version, EPA would proceed with final rulemaking on the version finally adopted by Louisiana and submitted to EPA, as appropriate after consideration of public comments.

II. Our Evaluation of Louisiana's BART Analysis for Nelson

Nelson is located in Westlake, Calcasieu Parish, Louisiana. The nearest Class I areas are Breton National Wilderness Area in Louisiana, located 264 miles east of the facility and Caney Creek Wilderness Area in Arkansas, located 286 miles north of the facility.

A. Identification of Nelson as a BART-Eligible Source

In our partial disapproval and partial limited approval of the 2008 Louisiana Regional Haze SIP, we approved the LDEQ's identification of 76 BART-eligible sources, which included Nelson.[5] Nelson is a fossil-fuel steam electric power generating facility and operates three BART-eligible steam generating units: Unit 4, Unit 4 Auxiliary Boiler, and Unit 6.

B. Evaluation of Whether Nelson Is Subject to BART

Because Louisiana's 2008 Regional Haze SIP relied on CAIR as a BART alternative for EGUs, the submittal did not include a determination of which BART-eligible EGUs were subject to BART. On May 19, 2015, we sent a CAA Section 114 letter to the Nelson BART-eligible source in Louisiana. In that letter, we noted our understanding that the source was actively working with the LDEQ to develop a SIP. However, in order to be in a position to develop a FIP should that be necessary, we requested information regarding the BART-eligible sources, including Nelson. The Section 114 letter required the source to conduct modeling to determine if the source was subject to BART, and included a modeling protocol. The letter also requested that a BART analysis be performed in accordance with the BART Guidelines for Nelson if determined to be subject to BART. We worked closely with the BART-eligible facility and with the LDEQ to this end, and all the information we received from the

[1] 77 FR 33642 (June 7, 2012).

[2] 77 FR 39425 (July 3, 2012).

[3] 81 FR 74750 (October 27, 2016).

[4] 82 FR 22936 (May 19, 2017).

[5] See 77 FR 11839 at 11848 (February 28, 2012).

facility was also sent to the LDEQ. As a result, the LDEQ submitted the February and June SIP revisions addressing BART for Nelson. The LDEQ provides a BART determination for each of the three units at the source for all visibility impairing pollutants except NO_X.[6] Once a list of BART-eligible sources still in operation within a state has been compiled, the state must determine whether to make BART determinations for all of them or to consider exempting some of them from BART because they are not reasonably anticipated to cause or contribute to any visibility impairment in a Class I area. The BART Guidelines present several options that rely on modeling analyses and/or emissions analyses to determine if a source is not reasonably anticipated to cause or contribute to visibility impairment in a Class I area. A source that is not reasonably anticipated to cause or contribute to any visibility impairment in a Class I area is not ''subject to BART,'' and for such sources, a state need not apply the five statutory factors to make a BART determination.[7] Sources that are reasonably anticipated to cause or contribute to any visibility impairment in a Class I area are subject to BART.[8] For each source subject to BART, 40 CFR 51.308(e)(1)(ii)(A) requires that the LDEQ identify the level of control representing BART after considering the factors set out in CAA section 169A(g)(2). To determine which sources are anticipated to contribute to visibility impairment, the BART Guidelines state ''you can use CALPUFF or other appropriate model to estimate the visibility impacts from a single source at a Class I area.''[9]

1. Visibility Impairment Threshold

The preamble to the BART Guidelines advise that, ''for purposes of determining which sources are subject to BART, States should consider a 1.0 deciview [10] change or more from an individual source to 'cause' visibility impairment, and a change of 0.5 deciviews to 'contribute' to impairment.'' [11] They further advise that ''States should have discretion to set an appropriate threshold depending on the facts of the situation,'' and describes situations in which states may wish to exercise that discretion, mainly in situations in which a number of sources in an area are all contributing fairly equally to the visibility impairment of a Class I area. In Louisiana's 2008 Regional Haze SIP submittal, the LDEQ used a contribution threshold of 0.5 dv for determining which sources are subject to BART, and we approved this threshold in our previous action.[12]

2. CALPUFF Modeling to Screen Sources

The BART Guidelines recommend that the 24-hour average actual emission rate from the highest emitting day of the meteorological period be modeled, unless this rate reflects periods of start-up, shutdown, or malfunction. The maximum 24-hour emission rate (lb/hr) for NO_X and SO_2 from the baseline period (2000–2004) for the source is identified through a review of the daily emission data for each BART-eligible unit from the EPA's Air Markets Program Data.[13] Because daily emissions are not available for PM, maximum 24-hr PM emissions are estimated based on permit limits, maximum heat input, and AP–42 factors, and/or stack testing. EPA conducted CALPUFF modeling and provided it to LDEQ to determine whether Nelson causes or contributes to visibility impairment in nearby Class I areas (see Appendix F of the June 2017 SIP revision). See the CALPUFF Modeling TSD for additional discussion on modeling protocol, model inputs, and model results for this portion of the screening analysis. The CALPUFF modeling establishes that Nelson's visibility impacts are above LDEQ's chosen threshold of 0.5 dv.

3. Nelson Is Subject to BART

The BART-eligible units at the Nelson facility have visibility impacts greater than 0.5 dv. Therefore, Nelson is subject to BART and must undergo a five-factor analysis. See our CALPUFF Modeling TSD for further information.

We note that, in addition to CALPUFF modeling, Appendix D of the February 2017 SIP revision includes the results of CAMx modeling [14] performed by Trinity consultants for Entergy. This modeling purports to demonstrate that the baseline visibility impacts from Nelson [15] are significantly less than the 0.5 dv threshold. However, this modeling was not conducted in accordance with the BART Guidelines or a previous modeling protocol we developed for the use of CAMx modeling for BART screening,[16] and does not properly assess maximum baseline impacts. Therefore, we agree with LDEQ's decision in the February 2017 SIP revision to not rely on this CAMx modeling.[17] See the CAMx Modeling TSD for a detailed discussion. We also note that, for the largest emission sources in Louisiana, such as the Nelson facility, we performed our own CAMx modeling while following the BART Guidelines and the modeling protocol to provide additional information on visibility impacts and impairment and address possible concerns with utilizing CALPUFF to assess visibility impacts at Class I areas located at large distances from the emission sources. Our CAMx modeling indicates that Nelson has a maximum impact [18] of 2.22 dv at Caney Creek, with 31 days out of the 365 days modeled exceeding 0.5 dv, and 9 days exceeding 1.0 dv. See the CAMx Modeling TSD for additional information on the EPA's CAMx modeling protocol, inputs, and model results.

[6] We have previously proposed approval of the portion of LDEQ's February 2017 revision that relies on CSAPR participation as an alternative to source-specific EGU BART for NO_X, therefore, a source by source analysis for NO_X is unnecessary. 82 FR 22936, at 22943.

[7] See 40 CFR part 51, Appendix Y, III, How to Identify Sources ''Subject to BART''.

[8] *Id.*

[9] See 40 CFR part 51, Appendix Y, III, How to Identify Sources ''Subject to BART''.

[10] As we note in the Regional Haze Rule (64 FR 35725, July 1, 1999), the ''deciview'' or ''dv'' is an atmospheric haze index that expresses changes in visibility. This visibility metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions.

[11] 70 FR 39104, 39120 (July 6, 2005), [40 CFR part 51, Appendix Y].

[12] See, 77 FR 11839, 11849 (February 28, 2012).

[13] *http://ampd.epa.gov/ampd/.*

[14] CAMx Modeling Report, prepared for Entergy Services by Trinity Consultants, Inc. and All 4 Inc, October 14, 2016, included in Appendix D of the February 2017 Louisiana Regional Haze SIP submittal.

[15] Entergy's CAMx modeling included model results for Michoud, Little Gypsy, R.S. Nelson, Ninemile Point, Willow Glen, and Waterford.

[16] Texas was the only state that developed a modeling protocol, which EPA approved, to screen sources using CAMx. Texas had over 120 BART-eligible facilities located at a wide range of distances to the nearest class I areas in their original Regional Haze SIP. CAMx modeling was appropriate in that instance due to the distances between sources and Class I areas and the number of sources. Texas worked with EPA and FLM representatives to develop this modeling protocol, which proscribed how the modeling was to be performed and what metrics had to be evaluated for determining if a source screened out. See Guidance for the Application of the CAMx Hybrid Photochemical Grid Model to Assess Visibility Impacts of Texas BART Sources at Class I Areas, ENVIRON International, December 13, 2007, available in the docket for this action. EPA, the Texas Commission on Environmental Quality (TCEQ), and FLM representatives verbally approved the approach in 2006 and in email exchange with TCEQ representatives in February 2007 (see email from Erik Snyder (EPA) to Greg Nudd of TCEQ Feb. 13, 2007 and response email from Greg Nudd to Erik Snyder Feb. 15, 2007, available in the docket for this action).

[17] See Response to Comments in Appendix A of the 2017 Louisiana Regional Haze SIP submittal.

[18] Maximum impact is defined as the maximum or1st high out of all modeled days (365 days in 2002).

C. Reliance on CSAPR To Satisfy NO_X BART

Louisiana's February 2017 SIP revision relies on CSAPR as a BART alternative for NO_X for EGUs. In our previous proposed approval of this February 2017 SIP revision,[19] we proposed to find that the NO_X BART requirements for all EGUs in Louisiana, including Nelson, will be satisfied by our determination and proposed for separate finalization that Louisiana's participation in CSAPR's ozone-season NO_X program is a permissible alternative to source-specific NO_X BART.[20] We cannot finalize this portion of that proposed SIP approval action unless and until we finalize our separate proposed finding that CSAPR continues to provide for greater reasonable progress than BART [21] because finalization of that proposal provides the basis for Louisiana to rely on CSAPR participation as an alternative to source-specific EGU BART for NO_X. If for some reason our proposed approval of LDEQ's reliance on CSAPR as a BART alternative cannot be finalized, source-by-source BART analyses for NO_X will be required for all subject-to-BART EGUs in Louisiana, including Nelson.

D. Louisiana's Five-Factor Analyses for SO_2 and PM BART for Nelson

In determining BART, the state must consider the five statutory factors in section 169A of the CAA: (1) The costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. *See also* 40 CFR 51.308(e)(1)(ii)(A). All units that are subject to BART must undergo a BART analysis. The BART Guidelines break the analysis down into five steps: [22]

STEP 1—Identify All Available Retrofit Control Technologies,

STEP 2—Eliminate Technically Infeasible Options,

STEP 3—Evaluate Control Effectiveness of Remaining Control Technologies,

STEP 4—Evaluate Impacts and Document the Results, and

STEP 5—Evaluate Visibility Impacts.

As mentioned previously, we disapproved portions of Louisiana's 2008 Regional Haze SIP due to the State's reliance on CAIR as an alternative to source-by-source BART for EGUs.[23] Following our limited disapproval, LDEQ worked closely with Louisiana's BART eligible EGUs, including Nelson, and with us to revise its Regional Haze SIP, which resulted in the submittal of its February and June 2017 SIP revisions addressing BART for Nelson. Although the February 2017 SIP revision addressed Nelson, we did not propose to take action on the SO_2 and PM BART for Nelson in our May 19, 2017 proposed approval.[24] Louisiana's February 2017 SIP revision relies on CSAPR participation as an alternative to source-specific EGU BART for NO_X. The June 2017 SIP revision includes additional information that the State used to evaluate BART for the Nelson facility. Nelson has three BART-eligible steam generating units: Unit 4, Unit 4 Auxiliary Boiler, and Unit 6.

Unit 4 is permitted to combust natural gas, No. 2, No. 4 and No. 6 fuel oils, and refinery fuel gas. Unit 4 has a maximum heat-rated capacity of 5,400 MMBtu/hour and exhausts out of one stack. It has flue gas recirculation equipment installed for control of NO_X emissions. The Unit 4 Auxiliary Boiler is permitted to burn natural gas and fuel oil.

Unit 6 burns coal as its primary fuel and No. 2 and No. 4 fuel oils as secondary fuels. Unit 6 has a maximum heat-rated capacity of 6,216 MMBtu/hour and exhausts out of one stack. It has an electrostatic precipitator (ESP) with flue gas conditioning for control of PM emissions. Unit 6 has installed Separated Overfire Air Technology (SOFA) and a Low NO_X Concentric Firing System (LNCFS) for NO_X control. Entergy submitted a BART screening analysis to us and the LDEQ on August 31, 2015, and a BART five-factor analysis dated November 9, 2015, revised April 15, 2016, in response to an information request.[25] These analyses were adopted and incorporated into Louisiana's February 2017 SIP revision (Appendix D). As part of our effort to assist the State, we submitted a draft analysis of Entergy's CALPUFF and CAMx modeling, our own draft CAMx and CALPUFF modeling, and our own draft cost analysis for Nelson to LDEQ. These analyses were adopted and incorporated into Louisiana's June 2017 SIP revision (Appendix F).

Unit 4 and Unit 4 Auxiliary Boiler

These units are currently permitted to burn natural gas and fuel oil. However, Entergy has not burned fuel oil at either unit in several years. Further, Entergy has no current operational plans to burn fuel oil. The LDEQ did not conduct a five-factor BART analysis for these units. The preamble to the BART Guidelines states: [26]

> Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible. In a scenario, for example, where a source emits thousands of tons of SO_2 but less than one hundred tons of NO_X, the State could easily conclude that requiring expensive controls to reduce NO_X would not be appropriate.

The SO_2 and PM emissions from gas-fired units are inherently low,[27] so the installation of any additional PM or SO_2 controls on this unit would likely achieve very small emissions reductions and have minimal visibility benefits.

To address SO_2 and PM BART for Unit 4 and the Unit 4 Auxiliary boiler, the June 2017 SIP revision precludes fuel-oil combustion at these units. To make the prohibition on fuel-oil usage enforceable, Entergy and the LDEQ intend to enter an Administrative Order on Consent (AOC), included in the June 2017 SIP revision, that establishes the following requirement:

> Before fuel oil firing is allowed to take place at Unit 4, and the auxiliary boiler at the Facility, a revised BART determination must be promulgated for SO_2 and PM for the fuel oil firing scenario through a FIP or an action by the LDEQ as a SIP revision and approved by the EPA such that the action will become federally enforceable.

We propose to approve the AOC as sufficient to meet the SO_2 and PM BART requirements for Unit 4 and the Unit 4 Auxiliary Boiler. If we finalize our

[19] 82 FR 22936.

[20] *Id,* at 22943.

[21] 81 FR 78954.

[22] 70 FR 39103, 39164 (July 6, 2005) [40 CFR 51, App. Y].

[23] 77 FR 33642.

[24] 82 FR 22936.

[25] Letter from Wren Stenger, Director, Multimedia Planning and Permitting Division, EPA Region 6, to Renee Masinter, Entergy Louisiana (May 19, 2015); letter from Wren Stenger to Paul Castanon, Entergy Gulf States (May 19, 2015; and letter from Wren Stenger to Marcus Brown, Entergy New Orleans (May 19, 2015).

[26] 70 FR 39116.

[27] AP 42, Fifth Edition, Volume 1, Chapter 1: External Sources, Section 1.4, Natural Gas Combustion, available here: *https://www3.epa.gov/ttn/chief/ap42/ch01/final/c01s04.pdf.*

approval of the AOC, it will become federally enforceable for purposes of regional haze.

Unit 6

Identification of Controls

In assessing SO_2 BART in the February 2017 SIP revision (Appendix D), Entergy considered the five BART factors. In assessing feasible control technologies and their effectiveness, Entergy considered low-sulfur coal, Dry Sorbent Injection (DSI), an enhanced DSI system, dry scrubbing (spray dry absorption, or SDA), and wet scrubbing (wet flue gas desulfurization, or wet FGD).

DSI is performed by injecting a dry reagent into the hot flue gas, which chemically reacts with SO_2 and other gases to form a solid product that is subsequently captured by the particulate control device. We agree with the LDEQ that no technical feasibility concerns warrant removing these controls from consideration as potential BART options for Unit 6.

SO_2 scrubbing techniques utilize a large dedicated vessel in which the chemical reaction between the sorbent [28] and SO_2 takes place either completely or in large part. In contrast to DSI systems, SO_2 scrubbers add water to the sorbent when introduced to the flue gas. The two predominant types of SO_2 scrubbing employed at coal-fired EGUs are limestone wet FGD and lime SDA. These controls are in wide use and have been retrofitted to a variety of boiler types and plant configurations. We agree with the LDEQ that no technical feasibility concerns warrant removing these controls from consideration as potential BART options for Unit 6.

Utilization of coal with a lower sulfur content will also result in a reduction in SO_2 emissions. Thus, Entergy identified switching to a lower sulfur coal in order to meet an emission limit of 0.6 lb/MMBtu as a potential BART control option. We note that the BART Guidelines do not require states to consider fuel supply changes as a potential control option,[29] but states are free to do so at their discretion.

Control-Effectiveness

Entergy assessed SDA and wet FGD as being capable of achieving SO_2 emission rates of 0.06 lb/MMBtu and 0.04 lb/MMBtu, respectively. As we discuss in the TSD, based on review of IPM documentation, industry publications, and real-world monitoring data, we agree with the LDEQ that 98% control efficiency for wet FGD and 95% control efficiency for SDA are reasonable assumptions and consistent with the emission rates identified by Entergy.

Entergy determined that DSI could achieve an SO_2 emission rate of 0.47 lb/MMBtu when coupled with the existing Unit 6 ESP and that enhanced DSI could achieve an SO_2 emission rate of 0.19 lb/MMBtu when coupled with a new fabric filter. Finally, Entergy determined that switching to a lower sulfur coal could reduce the SO_2 emission rate at Unit 6 to approximately 0.6 lb/MMBtu.

Impact Analysis

Entergy presented cost-effectiveness figures for each control they evaluated. Entergy estimated that the cost-effectiveness of switching to lower sulfur coal (LSC) would be $597/ton of emissions removed, the cost-effectiveness of DSI would be $5,590/ton, the cost-effectiveness of enhanced DSI would be $5,611/ton, the cost-effectiveness of SDA would be $4,536/ton, and the cost-effectiveness of wet FGD would be $4,413/ton. See Appendix D of the February 2017 Louisiana Regional Haze SIP. In general, Entergy's DSI and scrubber cost calculations were based on a propriety database, so we were unable to verify any of the company's costs. We solicit comment with respect to any information that would support or refute the undocumented costs in Entergy's evaluation. We also note that Entergy's control cost estimates included costs not allowed under our Control Cost Manual (*e.g.,* escalation during construction and owner's costs).[30] Entergy also assumed a contingency of 25%, which we note is unusually high. The lack of documentation aside, removing the disallowed costs and adjusting the contingency to a more reasonable value of 10% significantly improves (lower $/ton) Entergy's cost-effectiveness estimates. For instance, assuming the same SO_2 baseline as we used in our analyses,[31] Entergy's SDA cost-effectiveness would improve from a value of $5,094/ton to $4,154/ton.

Regarding the cost to switch to lower sulfur coal, Entergy states that its $597/ton cost-effectiveness value is based on a lower sulfur coal premium of $0.50/ton, but Entergy does not provide any documentation to support this figure. We examined information regarding Entergy's coal purchases for Nelson Unit 6 from the Energy Information Administration. This information indicated that, although there is some variability in the data, the premium Entergy has historically paid for lower sulfur coal has averaged higher than $0.50/ton.[32] We solicit comments on Entergy's $0.50/ton figure.

Because of these issues, we developed our own control cost analyses, which we present in our TSD. Table 1 summarizes the results of our analyses. For our cost-effectiveness calculations, we used a SO_2 baseline constructed from annual SO_2 emissions from the 2012–2016 period.[33] LDEQ incorporated our cost analysis into Appendix F of its June 2017 SIP revision along with Entergy's cost analysis.

TABLE 1—SUMMARY OF EPA'S COST ANALYSIS

Unit	Control	Control level (%)	SO_2 reduction (tpy)	2016 Total annualized cost	2016 Cost-effectiveness ($/ton)	2016 Incremental cost-effectiveness ($/ton) *
Nelson Unit 6	Low-Sulfur Coal	11.3	1,149	$3,397,281	$2,957	$2,957
	DSI	50	5,082	18,180,195	3,578	3,759

[28] Limestone is the most common sorbent used in wet scrubbing, while lime is the most common sorbent used in dry scrubbing.

[29] 40 CFR part 51, Appendix Y, Section IV.D.1.5, ''STEP 1: How do I identify all available retrofit emission control techniques?''

[30] As noted in our letter to Kelly McQueen of Entergy on March 16, 2016, we requested documentation for the Nelson Unit 6 cost analyses. Entergy replied on April 15, 2016, but did not supply any additional site specific documentation.

[31] Our SO_2 baseline, used in all of our cost-effectiveness calculations (including our adjustment of Entergy's cost analyses), was obtained from eliminating the max and min of the Nelson Unit 6 annual SO_2 emissions from 2012–2016, and averaging the SO_2 emissions from the remaining years.

[32] We calculated a premium of $2.48 based on a review of coal purchase data for 2016 from EIA. See the TSD for additional information.

[33] Our SO_2 baseline, used in all of our cost-effectiveness calculations (including our adjustment of Entergy's cost analyses), was obtained from eliminating the max and min of the Nelson Unit 6 annual SO_2 emissions from 2012–2016, and averaging the SO_2 emissions from the remaining years.

TABLE 1—SUMMARY OF EPA'S COST ANALYSIS—Continued

Unit	Control	Control level (%)	SO_2 reduction (tpy)	2016 Total annualized cost	2016 Cost-effectiveness ($/ton)	2016 Incremental cost-effectiveness ($/ton) *
	SDA	92.11	9,361	25,332,736	2,706	1,671
	Wet FGD	94.74	9,628	26,409,798	2,743	4,027

* For low-sulfur coal, the incremental $/ton is relative to use of coal typically used by the source in the past. For each remaining control, incremental $/ton is relative to the control in the row above.

In assessing energy impacts, Entergy identified additional power requirements associated with operating DSI, SDA, and wet FGD. Documentation issues aside, these auxiliary-power costs were accounted for in the variable operating costs in the cost evaluation. Entergy did not identify any energy impacts associated with switching to a lower sulfur coal. We agree with LDEQ's identification of the energy impacts associated with each of the control options.

In assessing non-air quality environmental impacts, Entergy noted that DSI, SDA, and wet FGD would add spent reagent to the waste stream generated by the facility. Entergy accounted for these waste-disposal costs in the variable operating costs in the cost evaluation. See our TSD for further information. Entergy did not identify any non-air quality environmental impacts associated with switching to a lower sulfur coal. We agree with LDEQ's identification of the non-air quality environmental impacts associated with each of the control options.

In assessing remaining useful life, Entergy indicated this factor did not impact the evaluation of controls as there is no enforceable commitment in place to retire Unit 6. We agree with LDEQ that Entergy's use of a 30-year equipment life for the DSI, SDA, and wet FGD cost evaluations, which is consistent with the Control Cost Manual, was therefore appropriate.

In assessing visibility impacts, Entergy evaluated the visibility impacts and potential benefits of each control option (See Appendix D for Entergy's visibility BART analysis for Nelson Unit 6). However, Entergy's CALPUFF modeling included errors in its estimates of sulfuric acid and PM emissions.[34] EPA performed CALPUFF modeling to correct for these errors (See CALPUFF Modeling TSD). The LDEQ incorporated our modeling, among other things, into the June 2017 SIP revision (Appendix F) and considered it along with the visibility analysis developed by Entergy. As we discuss above and in the CAMx Modeling TSD, Entergy also provided additional screening modeling results using CAMx to support its conclusion that visibility impacts from Unit 6 are minimal. However, this modeling was not conducted in accordance with the BART Guidelines and does not properly assess maximum baseline impacts, so we consider this CAMx modeling provided by Entergy to be invalid for supporting a determination of minimal visibility impacts. We performed our own CAMx modeling that follows the BART Guidelines and uses appropriate techniques and metrics to provide additional information on visibility impacts and benefits and to address possible concerns with utilizing CALPUFF to assess visibility impacts at Class I areas located farther from the emission sources. The LDEQ also incorporated this information into the June 2017 SIP revision (Appendix F) and considered it along with the visibility analysis developed by Entergy.

EPA's CAMx modeling for Unit 6 directly evaluated the maximum baseline visibility impacts and potential benefits from DSI. In addition to the DSI modeled benefits, visibility benefits for SDA, wet FGD, and low-sulfur coal were estimated based on linear extrapolation for the average across the top ten impacted days using the modeled baseline and DSI visibility impacts, and estimated emission reductions. We note that the baseline emission rate modeled is based on 24-hr actual emissions during the baseline period (2000–2004), while the control scenario emission rates are based on anticipated 30-day emission rates, as noted in the table below. At a maximum heat input of 6,126 MMBtu/hr for the boiler, the baseline short-term emission rate is approximately 1.2 lb/MMBtu for the 2000–2004 baseline. The results of this modeling for the maximum-impact day and the average across the top ten most impacted baseline days are summarized in Table 2. We note that wet FGD is estimated to provide a very small visibility benefit over SDA on average across the top ten most impacted baseline days, so we do not show the results for wet FGD in this table. See the CAMx Modeling TSD for a full description of the modeling and model results.

TABLE 2—SUMMARY OF EPA'S VISIBILITY ANALYSIS (CAMx)

Class I area	Baseline impact [a] (dv) (maximum)	Baseline Impact (dv) (average for top ten impacted days)	Visibility benefit of controls over baseline (dv) maximum impact	Visibility benefit of controls over baseline (dv) average for top ten impacted days		
			DSI [b]	Low-sulfur coal [c]	DSI [d]	SDA [e]
Breton	0.599	0.314	0.250	0.133	0.165	0.266
Caney Creek	2.179	1.302	1.187	0.411	0.511	0.831
Mingo	1.468	0.785	0.370	0.215	0.265	0.430
Upper Buffalo	1.219	0.934	0.374	0.330	0.408	0.663
Hercules-Glade	1.287	0.777	0.473	0.273	0.338	0.548

[34] See the CALPUFF Modeling TSD for discussion of these errors and corrected values.

TABLE 2—SUMMARY OF EPA'S VISIBILITY ANALYSIS (CAMx)—Continued

Class I area	Baseline impact [a] (dv) (maximum)	Baseline Impact (dv) (average for top ten impacted days)	Visibility benefit of controls over baseline (dv) maximum impact	Visibility benefit of controls over baseline (dv) average for top ten impacted days		
			DSI [b]	Low-sulfur coal [c]	DSI [d]	SDA [e]
Wichita Mountains	0.575	0.412	0.287	0.180	0.223	0.360

[a] 2000–2004 baseline.
[b] DSI at 0.47 lb/MMBtu.
[c] Low-Sulfur Coal benefit (at 0.6 lb/MMBtu, estimated based on linear extrapolation of baseline and DSI visibility impacts at each Class I area.
[d] DSI at 0.47 lb/MMBtu.
[e] SDA at 0.06 lb/MMBtu, estimated based on linear extrapolation of baseline and DSI visibility impacts at each Class I area.

Louisiana's SO_2 BART Determination for Nelson Unit 6

The LDEQ weighed the statutory factors, reviewed Entergy's and EPA's information, and concluded that SO_2 BART is an emission limit of 0.6 lbs/MMBtu based on a 30-day rolling average, consistent with the use of lower-sulfur coal. The LDEQ acknowledged that the visibility benefits of SDA and wet FGD are larger than those associated with lower-sulfur coal, but explained that lower-sulfur coal still achieves some visibility benefits and at a lower annual cost. The LDEQ also noted that SDA and wet FGD create additional waste due to spent reagent and have additional power demands to run the equipment.

Louisiana's PM BART Determination for Nelson Unit 6

The LDEQ noted that Nelson Unit 6 is currently equipped with an ESP to control PM emissions, the visibility impacts from PM emissions are small, and that any additional controls beyond the ESP would have minimal visibility benefits and would not be cost-effective. Therefore, the LDEQ determined that PM BART is an emission limit of 317.61 lb/hr, consistent with the use of the existing ESP.

Our Review of Louisiana's BART Determination for Nelson Unit 6

We propose to approve LDEQ's proposed finding in the June 2017 SIP revision that the visibility impacts from Unit 6's PM emissions are so minimal that any additional PM controls would result in very minimal visibility benefits that would not justify the cost of any upgrades and/or operational changes needed to achieve a more stringent emission limit. Unit 6 is currently equipped with an ESP for controlling PM emissions. The PM control efficiency of ESPs varies somewhat with the design of the ESP, the resistivity of the PM, and the maintenance of the ESP. We do not have information on the control efficiency of the ESP in use at Unit 6. However, reported control efficiencies for well-maintained ESPs typically range from greater than 99% to 99.9%.[35] We consider this pertinent in concluding that the potential additional PM control that a baghouse could offer over an ESP would be very minimal and come at a very high cost.[36] Also, our visibility modeling indicates that the impact from Unit 6's baseline PM emissions is very small, so the visibility improvement from replacing the ESP with a baghouse would be only a fraction of that small impact.[37] As discussed above, states can adopt a more streamlined approach to making BART determinations where appropriate. We therefore propose to agree with Louisiana that no additional controls are required to satisfy PM BART. In the June 2017 SIP revision, the LDEQ and Entergy have proposed to enter into an AOC establishing an enforceable limit on PM_{10} consistent with current controls at 317.61 lb/hr on a 30-day rolling basis. We are proposing to approve this AOC if it is finalized without significant changes and included in the final submittal.

We are also proposing to approve the LDEQ's February 2017 SIP revision as revised by the LDEQ's June 2017 SIP revision that addresses BART for the Nelson facility, including the State's proposed finding that lower sulfur coal is the appropriate SO_2 BART control for Unit 6. LDEQ has weighed the statutory factors and after a review of both Entergy's and EPA's information has concluded that BART is the emission limit of 0.6 lbs/MMBtu based on a 30-day rolling average as defined in the AOC. The LDEQ and Entergy have proposed to enter into an AOC establishing an enforceable limit of SO_2 at 0.6 lbs/MMBtu on a 30-day rolling basis. The emission limit will become enforceable upon EPA's final approval of the SIP. We are proposing to approve this AOC if finalized without significant changes and if it is included in the final submittal.

As the energy industry evolves, the LDEQ has committed to continue to work with EGUs throughout Louisiana to evaluate the operation of utilities. As such, the LDEQ will engage in discussions with Entergy about any potential changes in usage or emission rates at the Nelson facility. Any such changes will be considered for reasonable progress for future planning periods as appropriate.

III. Proposed Action

We are proposing to approve the remaining portion of the Louisiana's Regional Haze SIP revision submitted on February 10, 2017, related to the Entergy Nelson facility and the SIP revision submitted to the EPA for parallel processing on June 20, 2017 that establishes BART for the Nelson facility. We propose to approve the BART determination for Nelson Units 6 and 4 and Unit 4 auxiliary boiler, and the AOC that makes emission limits that represent BART permanent and enforceable for the purposes of regional haze. We solicit comment with respect to any information that would support or refute the undocumented costs in Entergy's evaluation for SO_2 controls on Unit 6. Once we take final action on our proposed approval of Louisiana's 2016 SIP revision addressing non-EGU

[35] EPA, ''Air Pollution Control Technology Fact Sheet: Dry Electrostatic Precipitator (ESP)—Wire Plate Type,'' EPA–452/F–03–028. Grieco, G., ''Particulate Matter Control for Coal-fired Generating Units: Separating Perception from Fact,'' apcmag.net, February, 2012. Moretti, A. L.; Jones, C. S., ''Advanced Emissions Control Technologies for Coal-Fired Power Plants, Babcox and Wilcox Technical Paper BR–1886, Presented at Power-Gen Asia, Bangkok, Thailand, October 3–5, 2012.

[36] We do not discount the potential health benefits this additional control can have for ambient PM. However, the regional haze program is only concerned with improving the visibility at Class I areas.

[37] See the TSD for additional information.

BART,[38] our proposed approval addressing BART for all other BART-eligible EGUs [39] and this proposal to address SO_2 and PM BART for the Nelson facility, we will have fulfilled all outstanding obligations with respect to the Louisiana regional haze program for the first planning period.

The EPA has made the preliminary determination that the June 2017 SIP revision requested by the State to be parallel processed is in accordance with the CAA and consistent with the CAA and the EPA's policy and guidance. Therefore, the EPA is proposing action on the June 2017 SIP revision in parallel with the State's rulemaking process. After the State completes its rulemaking process, adopts its final regulations, and submits these final adopted regulations as a revision to the Louisiana SIP, the EPA will prepare a final action. If changes are made to the State's proposed rule after the EPA's notice of proposed rulemaking, such changes must be acknowledged in the EPA's final rulemaking action. If the changes are significant, then the EPA may be obligated to withdraw our initial proposed action and re-propose.

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);
- 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 this action does not involve technical standards; 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available control technology.

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

Dated: June 23, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–14693 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

[38] 81 FR 74750 (October 27, 2016).

[39] 82 FR 22936 (May 19, 2017).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R02–OAR–2017–0132, FRL–9962–42–Region 2]

Approval and Promulgation of Plans for Designated Facilities; New Jersey; Delegation of Authority

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from the New Jersey Department of Environmental Protection (NJDEP) for delegation of authority to implement and enforce the Federal plan for Sewage Sludge Incineration (SSI) units. On April 29, 2016 the EPA promulgated the Federal plan for SSI units to fulfill the requirements of sections 111(d)/129 of the Clean Air Act. The Federal plan addresses the implementation and enforcement of the emission guidelines applicable to existing SSI units located in areas not covered by an approved and currently effective state plan. The Federal plan imposes emission limits and other control requirements for existing affected SSI facilities which will reduce designated pollutants.

On January 24, 2017, the NJDEP signed a Memorandum of Agreement which is intended to be the mechanism for the transfer of authority between the EPA and the NJDEP and defines the policies, responsibilities and procedures pursuant to the Federal plan for existing SSI units.

DATES: Written comments must be received on or before August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2017–0132 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212)

637–3892, or by email at *Gardella.Anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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VI. What is the EPA's conclusion?
VII. Statutory and Executive Order Reviews

I. What action is the EPA proposing?

The EPA is proposing to approve the NJDEP's request for delegation of authority to implement and enforce a Federal plan and to adhere to the terms and conditions prescribed in the Memorandum of Agreement (MOA) signed between the EPA and the NJDEP, as further explained below. The NJDEP requested delegation of authority of the Federal plan for existing applicable Sewage Sludge Incineration (SSI) units constructed on or before October 14, 2010. See 40 CFR part 62, subpart LLL. The Federal plan was promulgated by the EPA to implement emission guidelines (see 40 CFR part 60, subpart MMMM) pursuant to sections 111(d) and 129 of the Clean Air Act (CAA). The purpose of this delegation is to acknowledge the NJDEP's ability to implement a program and to transfer primary implementation and enforcement responsibility from the EPA to the NJDEP for existing applicable sources of SSI units. While the NJDEP is delegated the authority to implement and enforce the SSI Federal plan, nothing in the delegation agreement shall prohibit the EPA from enforcing the SSI Federal plan.

II. Why is the EPA proposing this action?

The EPA is proposing this action to:

- Give the public the opportunity to submit comments on the EPA's proposed action, as discussed in the **ADDRESSES** section of this Notice;
- Fulfill a goal of the CAA to place state governments in positions of leadership for air pollution prevention and control; and
- Allow the NJDEP to implement and enforce a Federal plan promulgated by the EPA that implements emission guidelines pursuant to sections 111(d) and 129 of the CAA.

III. What was submitted by the NJDEP and how did the EPA respond?

On October 12, 2016, the NJDEP submitted to the EPA a request for delegation of authority from the EPA to implement and enforce the Federal plan for existing SSI units. The EPA prepared the MOA that defines the policies, responsibilities, and procedures by which the Federal plan will be administered by both the NJDEP and the EPA, pursuant to 40 CFR part 62, subpart LLL for SSI units. The MOA is the mechanism for the transfer of responsibility from the EPA to the NJDEP.

Both the EPA and the NJDEP signed the MOA in which the State agrees to the terms and conditions of the MOA and accepts responsibility to implement and enforce the policies, responsibilities and procedures of the SSI Federal plan. The transfer of authority to the NJDEP became effective upon signature by the NJDEP on January 24, 2017.

IV. What are the CAA requirements?

Sections 111(d) and 129 of the CAA require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities and municipal solid waste landfills (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type and the EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria has been issued or which is not included on a list published under section 108(a) (national ambient air quality standards) or section 112 (hazardous air pollutants) of the CAA, but emissions of which would be subject to a standard of performance for new stationary sources under section 111(b). In addition, section 129 of the CAA also requires the EPA to promulgate EG for solid waste incineration units that emit specific air pollutants or a mixture of air pollutants. These pollutants include organics (dioxins and dibenzofurans), carbon monoxide, metals (cadmium, lead and mercury), acid gases (hydrogen chloride, sulfur dioxide and oxides of nitrogen), particulate matter and opacity (as appropriate).

On March 21, 2011 (76 FR 15372), the EPA promulgated NSPS and EG for SSI units, 40 CFR part 60, subparts LLLL and MMMM, respectively. The designated facility to which the EG applies is existing SSI units, as stipulated in subpart MMMM, that commenced construction on or before October 14, 2010. See 40 CFR 60.5060 for details.

Pursuant to section 129 of the CAA, state plan requirements must be ''at least as protective'' as the EG and become federally enforceable upon approval by the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. For states that fail to submit a plan, the EPA is required to develop and implement a Federal plan within two years following promulgation of the EG. The EPA implementation and enforcement of the Federal plan is viewed as an interim measure until states assume their role as the preferred implementers of the EG requirements stipulated in the Federal plan. Accordingly, the EPA encourages states to develop their own plan, or request delegation of the Federal plan, as the NJDEP has done.

V. What guidance did the EPA use to evaluate the NJDEP's delegation request?

The EPA evaluated the NJDEP's request for delegation of the SSI Federal plan pursuant to the provisions of the SSI Federal plan and the EPA's Delegation Manual.[1] Section 62.15865 of the SSI Federal plan establishes that a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal plan that includes the following requirements: (1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (see items under § 60.5015(a)(1), (2) and (7) from the SSI EG); (3) certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into a MOA with the Regional Administrator that sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority. Under the EPA's Delegation Manual, item 7–139, the Regional Administrator is authorized to delegate implementation and enforcement of

[1] Section 7–139 of the EPA's Delegation Manual is entitled ''Implementation and Enforcement of 111(d)(2) and 111(d)/129(b)(3) Federal Plans'' and the reader may refer to it in the docket for this proposed rule at *www.regulations.gov* (see Docket ID Number EPA–R02–OAR–2017–0132.

sections 111(d)/129 Federal plans to state environmental agencies. The requirements and limitations of a delegation agreement are defined in item 7–139. The Regional Administrator may consider delegating authority to implement and enforce Federal plans to a state provided the following conditions are met: (1) The state does not already have an EPA approved State plan; and (2) items (1) and (4) as described above from section 62.15865 of the SSI Federal plan.

NJDEP has met all of the EPA's delegation requirements as described above. The reader may view the NJDEP's letter to the EPA requesting delegation and the MOA signed by both parties at *www.regulations.gov,* identified by Docket ID Number EPA–R02–OAR–2017–0132.

VI. What is the EPA's conclusion?

The EPA has evaluated the NJDEP's submittal for consistency with the CAA, EPA regulations, and EPA policy. The NJDEP has met all the requirements of the EPA's guidance for obtaining delegation of authority to implement and enforce the SSI Federal plan. The NJDEP entered into a MOA with the EPA and it became effective on January 24, 2017. Accordingly, the EPA proposes to approve the NJDEP's request dated October 12, 2016 for delegation of authority of the Federal plan for existing SSI units. The EPA will continue to retain certain specific authorities reserved to the EPA in the SSI Federal plan and as indicated in the MOA (*e.g.,* authority to approve major alternatives to test methods or monitoring, etc.).

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a State plan submission that complies with the provisions of CAA sections 111(d) and 129(b)(2) and applicable Federal regulations. 42 U.S.C. 7411(d) and 7429(b)(2); 40 CFR 62.02(a). Thus, in reviewing State plan 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 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, this proposed rulemaking action, pertaining to the NJDEP's section 111(d)/(129) request for delegation of authority to implement and enforce the Federal plan for existing SSI units, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the NJDEP's section 111(d)/129 delegation request is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, waste treatment and disposal.

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

Dated: April 28, 2017.

Walter Mugdan,

Acting Regional Administrator, Region 2.

[FR Doc. 2017–14744 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2016–0344; FRL–9962–38–Region 6]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Oklahoma has applied to Environmental Protection Agency (EPA) for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Oklahoma. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by August 14, 2017.

ADDRESSES: Submit any comments identified by Docket ID No. EPA–R06–RCRA–2016–0344 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: patterson.alima@epa.gov.*
3. *Mail:* Alima Patterson, Regional Authorization Coordinator, Permit Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas Texas 75202–2733.
4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Regional Authorization Coordinator, Permit Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross

Avenue, Suite 1200, Dallas Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov*, or email. Direct your comment to Docket No. EPA–R06–RCRA–2016–0344. The Federal *regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy Oklahoma's application and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following locations: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Regional Authorization Coordinator, RCRA Permits Section (6MM–RP), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, (214) 665–8533) and Email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: April 24, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–14773 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2016–0558; FRL–9962–36–Region 6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Louisiana has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Louisiana. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by direct final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by August 14, 2017.

ADDRESSES: Submit any comments identified by Docket ID No. EPA–R06–RCRA–2016–0558, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: patterson.alima@epa.gov.*
3. *Mail:* Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Regional Authorization Coordinator, RCRA Permit Section (6MM–RP), Multimedia Division, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov*, or email. Direct your comment to Docket No. EPA–R06–RCRA–2016–0558. The Federal *regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy Louisiana's application and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following locations: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559 and EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Regional Authorization Coordinator, RCRA Permits Section (6MM–RP), Multimedia Division, EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, (214) 665–8533 and email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: April 24, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–14764 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R10–RCRA–2017–0285; FRL–9963–60–Region 10]

Washington: Proposed Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Washington has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended, (RCRA). The EPA has reviewed Washington's application, and we have determined that these changes satisfy all requirements needed to qualify for final authorization and are proposing to authorize the State's changes. The EPA seeks public comment prior to taking final action.

DATES: Comments on this proposed rule must be received by August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–RCRA–2017–0285, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Barbara McCullough, U.S. Environmental Protection Agency, Region 10, Office of Air and Waste (OAW–150), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553–2416, email: *mccullough.barbara@epa.gov* or from the Washington State Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503, contact: Robert Rieck, phone number: (360) 407–6751, email: *rori461@ecy.wa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from the EPA pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

Washington State's hazardous waste management program was initially approved on January 30, 1986 and became effective on January 31, 1986. As explained in Section E below, it has been revised and reauthorized numerous times since then. On January 26, 2017, EPA received the State's most recent authorization revision application. This authorization revision application requests federal authorization for Washington's Rules and Standards for Hazardous Waste, effective as of December 31, 2014, and seeks to revise its federally-authorized hazardous waste management program to include Federal hazardous waste regulations promulgated through July 1, 2013.

B. What decisions are proposed in this action?

The EPA has reviewed Washington's application to revise its authorized program and proposes to determine that it meets all of the statutory and regulatory requirements established by RCRA, as amended. Therefore, with respect to these revisions we are proposing to grant Washington final authorization to operate its hazardous waste program with the changes described in the authorization revision application. Washington will continue to have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian country (18 U.S.C. 1151)) with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the ''1873 Survey Area'' or ''Survey Area'') located in Tacoma, Washington (see section ''J'' below for full description) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA, and which are not less stringent than existing requirements, take effect in authorized states before the states are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Washington, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this proposed authorization decision?

If Washington is authorized for these changes, a person in Washington subject to RCRA must comply with the authorized State requirements in lieu of the corresponding Federal requirements. Additionally, such persons will have to comply with any applicable Federal requirements, such as, HSWA regulations issued by the EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Washington continues to have enforcement responsibilities under its State hazardous waste management program for violations of this program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, the authority to:

- Conduct inspections;
- Require monitoring, tests, analyses, or reports;
- Suspend, terminate, modify or revoke permits;
- Abate conditions that may present an imminent and substantial endangerment to human health and the environment; and
- Enforce RCRA requirements and take enforcement actions regardless of whether the State has taken its own actions.

The action to approve these revisions would not impose additional requirements on the regulated community because the regulations for which Washington has requested federal authorization are already effective under State law and are not changed by the act of authorization.

D. What happens if the EPA receives comments on this action?

If the EPA receives comments on this proposed action, we will address those comments in our final action. You may not have another opportunity to comment. If you want to comment on this proposed authorization, you must do so at this time.

E. What has Washington previously been authorized for?

Washington initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3782), to implement the State's hazardous waste management program. The EPA granted authorization for changes to Washington's program on September 22, 1987, effective on November 23, 1987 (52 FR 35556); August 17, 1990, effective October 16, 1990 (55 FR 33695); November 4, 1994, effective November 4, 1994 (59 FR 55322); February 29, 1996, effective April 29, 1996 (61 FR 7736); September 22, 1998, effective October 22, 1998 (63 FR 50531); October 12, 1999, effective January 11, 2000 (64 FR 55142); April 11, 2002, effective April 11, 2002 (67 FR 17636); April 14, 2006, effective June 13, 2006 (71 FR 19442); October 30, 2006 effective December 29, 2006 (71 FR 63253) and June 18, 2010 effective July 28, 2010 (75 FR 44144) .

F. What changes are we proposing?

The EPA is proposing to authorize revisions to Washington's authorized program described in Washington's official program revision application, submitted to the EPA on January 26, 2017 and deemed complete by the EPA on February 23, 2017. The EPA proposes to determine, subject to public review and comment, that Washington's hazardous waste management program revisions as described in the January 23, 2017 State's authorization revision application satisfy the requirements necessary to qualify for final authorization. Regulatory revisions that are less stringent than the Federal program requirements and those regulatory revisions that are broader in scope than the Federal program requirements are not authorized. Washington's authorized hazardous waste management program, as amended by these provisions, remains equivalent to, consistent with, and is no less stringent than the Federal RCRA program. Therefore, we are proposing to authorize the State for the following program changes as identified in Table 1 and Table 2 below.

The provisions listed in Table 1 and Table 2 are from the Washington Administrative Code (WAC) and are analogous to the RCRA regulations as indicated in the Tables. The RCRA regulations that the State incorporated by reference are those as published in 40 CFR parts 260 through 265, 268, 270, and 279, as of July 1, 2013, unless otherwise noted. Table 1 identifies new State rules that the EPA is authorizing as equivalent or more stringent than the Federal program. Table 2 identifies State-initiated changes to previously authorized State provisions. (Note: in Table 2 some State provisions have no direct Federal analog but are related to particular paragraphs, sections, or parts of the Federal hazardous waste regulations) The referenced analogous State authorities were State adopted and effective as of December 31, 2014.

TABLE 1—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL PROGRAM

Checklist [1]	Federal requirements	**Federal Register**	Analogous State authority (WAC 173–303– * * *)
12 [2]	Satellite Accumulation	49 FR 49568, 12/20/1984	200(2).
174	Post-Closure Permit Requirement and Closure Process.	63 FR 56710, 10/22/1998	645(1)(e); 800(12); 610(3)(a)(ix); 620(1)(d)(i); 610(3)(b)(ii)(D); 610(8)(d)(ii)(D); 045(1); 400(3)(a); IBR 045(1); 800(2); 806(4)(a); 806(4)(o).
206	Nonwastewaters from Dyes and Pigments.	70 FR 9138, 2/24/2005	071(3)(kk), 071(3)(kk)(i), 071(3)(kk)(ii), 071(3)(kk)(iii), 071(3)(kk)(iv), 071(3)(kk)(v); 9904, 9904(1), 9904(2), 9904(3), 9904(4), 9904(4)(a), 9904(4)(b), 9904(4)(b)(i), 9904(4)(b)(ii), 9904(4)(b)(iii), 9904(4)(b)(iv), 9904(4)(b)(iv)(A), 9904(4)(b)(iv)(B), 9904(4)(b)(iv)(C), 9904(4)(c), 9904(4)(c)(i), 9904(4)(c)(ii), 9904(4)(c)(iii), 9904(4)(c)(iii)(A), 9904(4)(c)(iii)(B), 9904(4)(c)(iii)(C), 9904(4)(c)(iii)(D), 9904(4)(c)(iv), 9904(4)(c)(iv)(A), 9904(4)(c)(iv)(B), 9904(4)(c)(v), 9904(4)(c)(vi), 9904(4)(c)(vii), 9904(4)(c)(viii), 9904(4)(c)(ix), 9904(4)(c)(x), 9904(4)(c)(x)(A), 9904(4)(c)(x)(B), 9904(4)(c)(x)(C), 9904(4)(c)(x)(D), 9904(4)(c)(xi), 9904(4)(c)(xi)(A), 9904(4)(c)(xi)(B), 9904(4)(c)(xi)(C), 9904(4)(d), 9904(4)(e); 082(4); 045(1); 9905; 140(2)(a) IBR; 045(1).
220 [2]	Academic Laboratories Generator Standards.	73 FR 72912, 12/1/2008	070(7)(c)(vi), 070(7)(c)(vii); 170(7), 170(7)(a), 170(7)(b); 235, 235(1), 235(1)(a), 235(1)(b), 235(1)(c), 235(1)(d), 235(1)(e), 235(1)(f), 235(1)(g), 235(1)(h), 235(1)(i), 235(1)(j) and (k), 235(1)(l), 235(1)(m), 235(1)(n), 235(2), 235(2)(a), 235(2)(b); 225(3), 225(3)(a), 225(3)(b); 235(4), 235(4)(a), 235(4)(b), 235(4)(b)(i), 235(4)(b)(ii), 235(4)(b)(iii), 235(4)(b)(iv), 235(4)(b)(v), 235(4)(b)(vi), 235(4)(b)(vii), 235(4)(b)(viii), 235(4)(b)(ix), 235(4)(b)(x), 235(4)(b)(xi), 235(4)(c), 235(4)(d), 235(4)(e), 235(5)(a), 235(5)(b), 235(5)(b)(i), 235(5)(b)(ii), 235(5)(b)(iii), 235(5)(b)(iv), 235(5)(b)(v), 235(5)(b)(vi), 235(5)(b)(vii), 235(5)(b)(viii), 235(5)(b)(ix), 235(5)(b)(x), 235(5)(b)(xi), 235(5)(c), 235(6), 235(6), 235(7), 235(7), 235(7)(a), 235(7)(a)(i), 235(7)(a)(i)(A), 235(7)(a)(i)(C), 235(7)(a)(i)(B), 235(7)(a)(i)(C)(I), 235(7)(a)(i)(C)(II), 235(7)(a)(ii), 235(7)(a)(ii), 235(7)(a)(ii)(A), 235(7)(a)(ii)(B), 235(7)(a)(ii)(C), 235(7)(b), 235(7)(b)(i), 235(7)(b)(ii), 235(7)(b)(iii), 235(7)(b)(iii)(A), 235(7)(b)(iii)(B), 235(7)(b)(iii)(C), 235(7)(b)(iii)(C)(I), 235(7)(b)(iii)(C)(II), 235(8), 235(8), 235(8)(a), 235(8)(b), 235(8)(b)(i), 235(8)(b)(ii), 235(8)(b)(iii), 235(8)(b)(iv), 235(8)(b)(v), 235(8)(c), 235(8)(c)(i), 235(8)(c)(ii), 235(8)(c)(iii), 235(8)(c)(iv), 235(8)(d), 235(8)(d)(i), 235(8)(d)(ii), 235(9), 235(9)(a), 235(9)(a)(i), 235(9)(a)(ii), 235(9)(b), 235(9)(c), 235(9)(d), 235(9)(d)(i), 235(9)(d)(i)(A), 235(9)(d)(i)(B), 235(9)(d)(ii), 235(9)(d)(ii)(A), 235(9)(d)(ii)(B), 235(10), 235(10)(a), 235(10)(a)(i), 235(10)(a)(ii), 235(10)(a)(iii), 235(10)(b), 235(11), 235(11), 235(11)(a), 235(11)(b), 235(11)(b)(i), 235(11)(b)(ii), 235(11)(b)(iii), 235(11)(c), 235(11)(d), 235(11)(d)(i), 235(11)(d)(ii), 235(11)(e), 235(12), 235(12), 235(12)(a), 235(12)(b), 235(12)(c) except for "WAC 173–303–200(1)(b)(i)" citation, 235(12)(d), 235(12)(e), 235(12)(e)(i), 235(12)(e)(ii), 235(12)(e)(iii), 235(12)(e)(iv), 235(13), 235(13), 235(13)(a), 235(13)(b), 235(13)(c), 235(13)(d), 235(13)(e), 235(13)(e)(i), 235(13)(e)(ii), 235(13)(e)(iii), 235(13)(e)(iv), 235(14), 235(14)(a), 235(14)(a)(i), 235(14)(a)(ii), 235(14)(a)(iii) except for the phrase ", more than 2.2 pounds of WT01 EHW", 235(14)(a)(iv), 235(14)(b), 235(14)(b)(i), 235(14)(b)(ii), 235(15),

TABLE 1—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL PROGRAM—Continued

Checklist [1]	Federal requirements	Federal Register	Analogous State authority (WAC 173–303– * * *)
			235(15)(a), 235(15)(a)(i), 235(15)(a)(i)(A), 235(15)(a)(i)(B), 235(15)(a)(ii), 235(15)(b), 235(15)(b)(i), 235(15)(b)(ii), 235(15)(b)(iii), 235(15)(b)(iv), 235(15)(b)(iv)(A), 235(15)(b)(iv)(B), 235(15)(b)(iv)(B)(I), 235(15)(b)(iv)(B)(II), 235(15)(b)(v), 235(15)(b)(vi), 235(15)(b)(vi)(A), 235(15)(b)(vi)(B), 235(15)(b)(vii), 235(15)(b)(vii)(A), 235(15)(b)(vii)(B), 235(15)(b)(vii)(C), 235(15)(b)(vii)(D), 235(15)(c), 235(15)(d), 235(16), 235(16)(a), 235(16)(b), 235(17), 235(17)(a), 235(17)(b).
222	OECD Requirements; Export Shipments of Spent Lead-Acid Batteries.	75 FR 1236, 1/8/2010	170(6); 230(1) IBR; 045(1); 240(11); 290(1)(b); 370(3), 370(7); 290(1)(b); 370(3), 370(7); 520(1)(a) and (b).
223 [2]	Hazardous Waste Technical Corrections and Clarifications.	75 FR 12989, 1/18/2010	040 ''New TSD facility'' definition; 040 ''Processed scrap metal'' definition; 016 Table 1; 070(8)(a)(iii); 120(3), 120(3)(d); 090(7)(a)(viii); 9904; 9903; 082(4) IBR; 045(1); 180(3)(f), 180(3)(f)(i), 180(3)(f)(i)(A), 180(3)(f)(i)(B), 180(3)(f)(ii), 180(3)(f)(iii), 180(3)(f)(iv); 200(1)(b)(iv)(B), 200(1)(f), 200(1)(g) , 200(2)(a), 200(2)(b); 220(2)(e), 220(2)(e)(i), 220(2)(e)(ii) 220(2)(e)(ii) Note; 230(2); 350(2); 370(5)(e)(vi), 370(5)(f)(i), 370(5)(f)(vii), 370(5)(f)(viii); 350(2); 360(2)(d)(ii); 370(5)(e)(vi), 370(5)(f)(i), 370(5)(f)(vii), 370(5)(f)(viii); 400(3)(a) IBR and 045(1); 505(1)(b)(i); 140(2)(a) IBR; 045(1); 810(8)(b).
226 [2]	Academic Laboratories Generator Standards Technical Corrections.	75 FR 79304, 12/20/2010	235(1), 235(1)(b), 235(7)(b)(iii)(A), 235(13)(e)(i), 235(15)(a)(i), 235(15)(b)(i).
227	Revision of the Land Disposal Treatment Standards for Carbamate Wastes.	76 FR 34147, 6/13/2011	140(2)(a) IBR; 045(1).
228 [2]	Hazardous Waste Technical Corrections and Clarifications Rule.	77 FR 22229, 4/13/2012	9904; 505(1)(b)(i).

[1] The Checklist is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the FEDERAL REGISTER. The EPA develops these checklists as tools to assist states in developing their authorization application and in documenting specific state regulations analogous to the Federal regulations. For more information, see the EPA's RCRA State Authorization Web site at *https://www.epa.gov/rcra/state-authorization-under-resource-conservation-and-recovery-act-rcra#about.*

[2] State rule contains more stringent provisions. For identification of the more stringent State provisions refer to the authorization revision application's Attorney General Statement and Checklists found in the docket for this proposed rule. Some of the more stringent state provisions are discussed in Section G of this rule.

TABLE 2—STATE INITIATED CHANGES

State Citation WAC 173–303– * * *	Reason for Change:	Analogous Federal 40 CFR Citation
040	''Enforceable document'' definition internal citations corrected: WAC 173–303–610(1)(e); WAC 173–303–620(1)(d).	270.1(c)(7).
040	''Facility'' definition internal citation corrected: RCW 70.105D.020(8) ..	260.10.
040	''Performance track member facility'' obsolete definition deleted	260.10.
040	''Release'' definition internal citation corrected: RCW 70.105D.020(32).	280.12 related.
045(1)	Date of incorporation by reference updated	No direct analog.
070(1)(b)	Language revised for equivalence with federal rule	262.11.
072(1)(b)	Internal citation corrected: ''described in subsections (3) and (4) of this section.''.	260.20.
110(3)(a)	SW–846 reference information updated	260.11(c).
110(3)(c), 110(7)	Updated Chemical Test Methods guidance and publication date	Related to 260.11 and 40 CFR Appendix IX.
110(3)(g)(ix), 110(3)(h)(i), 110(3)(h)(vii).	References to industry standards and codes updated	260.11(d) and (e).
170(3)	Clarification that final facility standards are found in WAC 173–303–600.	264.1(g)(3) related.
180(3)(c)	Redundant manifest instructions deleted (Previous (d), (e) and (f) are renumbered to (c), (d) and (e)).	262.23 related.
200(1)(b)(iv)	Requirement for independent qualified registered professional engineer (IQRPE).	262.34(a)(1)(iv)—more stringent State requirement.
200(1)(b)(iv)(B)	Second sentence of this citation was relocated to new 200(1)(g) to clarify applicability to all generators.	262.34(a)(1)(iv)(B).
200(2)(b), 200(3)(c)	''Per waste stream'' deleted for equivalence with federal rule	262.34(c).
200(4)(a)(iv)(A)(III)	Reminder added that facilities use an IQRPE to certify containment building design.	262.34(g)(4)(i)(C)—more stringent State requirement.
200(5)	Requirements for National Environmental Performance Track Program deleted (Previous (6) is renumbered to (5)).	262.34(j), (k) and (l).
240(6)	Editing correction	263.12 related—more stringent State requirement.
330(1)(d)	Editing correction. The second sentence of previous (c)(ii) is changed to (d), and (d) renumbered to (e).	264.16(b).
370(1)	''Owners and operators'' clarified to mean the phrase applies only to permitted facilities and dangerous waste recyclers.	264.70(a).
380(1)(r)	New sub-section: Certificates of major tank system repair added for equivalence with federal rule.	264.73(b)(19).

TABLE 2—STATE INITIATED CHANGES—Continued

State Citation WAC 173–303– * * *	Reason for Change:	Analogous Federal 40 CFR Citation
400(3)(c)(ii)(G)	Enforceable documents in lieu of a post closure permit adopted	265.110(c), 265.118(c)(4) and 265.121.
400(3)(c)(xxii)(B)	Reference to Performance Track member facilities deleted	265.1101(c)(4).
400(3)(c)(xxii)(B)	Rule is modified to add IQRPE requirement.	265.1101(c)(3)(iii)—more stringent State requirement.
573(9)(b)(ii)(A)	Corrected for equivalence with federal rule	273.13(c)(2)(i).
573(19)(b)(iv) and (v)	References to thermostat universal waste are removed, including in the example calculation.	273.32(b)(4) and (5)—more stringent State requirement
600(1)	Edit to clarify which rules are the final facility standards	264.1(a).
600(2)	Clarification on what types of facilities can accept dangerous waste from off-site sources.	264.1(b).
610(4)(c)	Internal citations corrected for equivalence with federal rule	264.113(c).
610(3)(a)(ix), 610(3)(b)(ii)(D), 610(8)(d)(ii)(D).	Internal citation corrected	264.112(b)(8), 264.112(c)(2)(iv), 264.118(d)(2)(iv).
610(12)(f)	Editing correction	No direct analog.
620(1)(d)(i)	Internal citation corrected	264.140(d)(1).
620(3)(a)(ii), 620(6)(a), 620(9)(a)	Revise wording to be gender neutral	264.142(a)(2), 264.145, 264.148(a).
620(3)(a)(ii), 620(5)(a)	Clarify that financial assurance cost estimates are performed by a third party.	264.142(a)(2), 264.144(a)(1).
620(3)(a)(v), 620(4)(g), 620(6)(c)	Clarify that net present value adjustments are not allowed	262.142(a), 264.142(a), 264.144(a).
620(4)(a)(vi), 620(4)(d)(iv), 620(6)(a)(vi).	Clarify that financial test and the corporate guarantee are two separate but related options.	264.143(f), 264.143(f), 264.145(f).
620(4)(d)(iv), 620(6)(a)(vi), 620(8)(a)(iv).	Minimum tangible net worth raised to $25M	264.143(f)—more stringent State requirement. 264.145(f)—more stringent State requirement. 264.147(f)—more stringent State requirement.
620(4)(d)(v), 620(6)(a)(vii)	''Agreed upon Procedures'' report can be used in place of a ''Negative Assurance'' report.	264.143(f)(3)(iii), 264.143(f)(3)(iii).
620(8)(a)(i)	Minimum financial assurance liability amounts increased. (Previous (i), (ii) and (iii) are renumbered to (ii), (iii) and (iv)).	264.147(a) and 264.147(b)—more stringent State requirements.
630(7)(d)	Clarify that rule applies to TSD owners and operators, not generators	264.175(d)—more stringent State requirement.
640(2)(c)(v)(B) Note, 640(4)(i)(iii) Note, 640(9)(b).	References to industry standards and codes updated	264.191(b)(5)(ii) Note, 264.193(i)(3) Note.
645(1)(e)	Rule for enforceable documents in lieu of a post closure permit, (previous (e) became (f)).	264.90(e).
645(8)(c)	Clarify rule applicability	264.97(c)—more stringent State requirement.
64620(5)	New rules for corrective action financial assurance	264.101 related—more stringent State requirement.
64690	Facilities must use an IQRPE for staging pile design	264.554 IBR, 045(1)—more stringent State requirement.
650(4)(c)	Facilities must use an IQRPE to certify dike integrity	254.226(c)—more stringent State requirement.
650(5)(d)(ii)(B)	Facilities must use an IQRPE for impoundment design	254.227(d)(2)(ii)—more stringent State requirement.
650(6)(b)(ii)	Internal citation corrected	264.228(b)(2).
665(2)(a)(i)	Facilities must use an IQRPE to certify report on basis for landfill liner selection.	264.301(a)(1)—more stringent State requirement.
800(2), 800(12), 806(4)(a), 806(4)(o).	Rules for enforceable documents in lieu of a post closure permit	270.1(c) intro, 270.1(c)(7), 270.14(a), 270.28.
806(4)(d)(v)	Facilities must use an IQRPE for certifying dike integrity	270.17(d)—more stringent State requirement.
806(4)(e)(iii)(A)(I)	Reference to IQRPE requirement to certify waste pile liner selection	270.18(c)(1)(i)—more stringent State requirement.
806(4)(h)(ii)(A)(I)	Reference to IQRPE requirement to certify landfill liner selection	270.21(b)(1)(i)—more stringent State requirement.
806(4)(j)(iv)(C), 806(4)(k)(v)(C)	The word ''design'' is deleted after ''basic control device'' for equivalence with federal rule.	270.24(d)(3), 270.25(e)(3).
806(4)(n)	New facilities added to list of those able to burn hazardous waste	270.22 intro.
811	New Boiler and Industrial Furnace (BIF) facility types added to list	270.66 IBR 045(1).
830 Appendix I Permit modifications table.	New entry for ''Burden Reduction'' added	270.42 Appendix I—more stringent State requirement.
830 Appendix I, (F)(1)(c), (F)(4)(a), (G)(1)(e), (G)(5)(c), (H)(5)(C).	Note added acknowledging non-existent RCRA section	270.42 Appendix I.
841	New Boiler and Industrial Furnace (BIF) facility types added to list	270.235(a)(1) intro IBR 045(1).
9903	Numerical P list	261.33.

TABLE 2—STATE INITIATED CHANGES—Continued

State Citation WAC 173–303– * * *	Reason for Change:	Analogous Federal 40 CFR Citation
	• P108 CAS number corrected (2 entries). • P114 *Tetraethydithiopyrophosphate* is replaced with *Thallium(I) selinite*. • P115 *Thiodiphosphoric acid, tetraethyl ester* is replaced with *Sulfuric acid, dithallium(1+) salt*. • P115 *Plumbane, tetraethyl* is replaced with *Thallium(I) sulfate*. • P116 *Tetraethyl lead* is replaced with *Hydrazinecarbothioamide*. • Correct errors with waste codes, CAS numbers and chemical names. • P128 *Mexacarbate* CAS number corrected. Alphabetical U list. • U202 *1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts* deleted *. • U202 *Saccharin, & salts* deleted *. • U227 waste code for *1,1,1-Trichloroethane* is replaced with U226.. Numerical U list. • U202 *1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts* deleted *. • U202 *Saccharin, & salts* deleted *. * These entries were deleted as part of State adoption of the December 17, 2010 75 FR 78918 EPA rule removing saccharin from the discarded chemicals list. Although these changes are not State-initiated, they are listed here because an EPA checklist was not available.	
9904(1) K181	K181 listing code codified	261.32(a) K181.
9904 K181 entry, 9904(1) K181(iv), 9904(4)(b), 9904(4)(c), 9904(4)(c)(i) and (ii).	Four internal citations corrected	261.32(a) K181, 261.32(d)(2), 261.32(d)(3), 261.32(d)(3)(i) and (ii).
9904 K069	Administrative stay note added	261.32 K069.

G. Where are the revised state rules different from the Federal rules?

Under RCRA section 3009, the EPA may not authorize State rules that are less stringent than the Federal program. Any state rules that are less stringent do not supplant the Federal regulations. State rules that are broader in scope than the Federal program requirements are allowed but are not authorized. State rules that are equivalent to, and State rules that are more stringent than the Federal program may be authorized, in which case they are enforceable by the EPA.

This section does not discuss all the program differences, because in most instances Washington writes its own version of the Federal hazardous waste rules. Persons must consult Tables 1 and 2, in Section F, for the specific State regulations that the EPA is proposing to authorize. This section discusses rules of particular interest where the EPA proposes to find that the State program is more stringent and will be authorized. Table 2 above indicates all the rules that the EPA determined to be more stringent than the federal rules. The section below also discusses an example of a rule where the State program is broader in scope and cannot be authorized. Certain portions of the Federal program are not delegable to the states because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. The EPA does not delegate import/export functions. Under RCRA regulations found in 40 CFR part 262, the EPA will continue to implement requirements for import/export functions. However, the State rules (WAC 173–303–230) reference the EPA's export and import requirements, and the State has amended these references to include those changes promulgated in the Federal Rule on Corrections to Errors in the Code of Federal Regulations (71 FR 40254, July, 7, 2006). Additional information regarding the EPA's analysis concerning the State's rules that are more stringent and/or broader in scope than the federal rules can be found in the docket.

1. More Stringent

States are allowed to seek authorization for state requirements that are more stringent than Federal requirements. The EPA has authority to authorize and enforce those parts of a state's program the EPA finds to be more stringent than the Federal program. This section does not discuss each more stringent finding made by the EPA, but persons can locate such findings by consulting Table 1 in Section F, and by reviewing the docket for these rules. This action proposes to authorize the State program for each more stringent requirement.

a. Satellite Accumulation—On December 20, 1984 (49 FR 49568), the Federal Satellite Accumulation rule was promulgated. The State adopted a satellite accumulation rule in 1986 and adopted a revised rule on December 8, 1993. On December 18, 2014, the State adopted another revision to WAC 173–303–200(2) with all instances of ''per waste stream'' removed for consistency with the Federal rule at 40 CFR 262.34(c). The State rule has an additional provision for satellite accumulation requirements whereby the State can require additional management requirements on a case-by-case basis, which renders the State rule more stringent than the Federal rule. Additional details regarding the State's adoption of the revised satellite accumulation rule are available in the docket.

b. Academic Laboratory Generator Standards—The State's Academic Laboratories Generator Standards contain more stringent requirements than the corresponding Federal rules (73 FR 72912, December 1, 2008).

i. WAC 173–303–235(4)(a), (4)(b)(ii), (5)(a), and (5)(b)(ii), are more stringent because the State requires small quantity generators to obtain EPA/state identification numbers, whereas the Federal rules at 40 CFR 262.203(a) and (b)(ii) and 40 CFR 262.204(a) and (b)(2) exempt the comparable Conditionally

Exempt Small Quantity Generators (CESQGs).

ii. WAC 173–303–235(4)(b) and (5)(b) are more stringent than 40 CFR 262.203(b) and 262.204(b) introductory paragraphs due to the State requirement for small quantity generators to complete the entire Washington State Dangerous Waste Site Identification form, whereas the Federal rules exempt CESQGs from filling in a site identification number.

iii. WAC 173–303–235(7)(a)(i), 235(9)(d)(i)(A) and 235(9)(d)(ii)(A) require accumulation start dates and full container dates to be attached to the containers rather than, at a minimum, be associated with them as required by 40 CFR 262.206(a)(1) and 262.208(d)(1)(i).

iv. WAC 173–303–235(14)(a)(iv) requires eligible academic entities to maintain records for five years after laboratory cleanouts rather than three years as required in 40 CFR 262.213(a)(4).

On December 12, 2010 (75 FR 79304), the Federal Academic Laboratories Generator Standards Technical Corrections rules were promulgated. The State's rules at WAC 173–303–235(15)(a)(i) and (b)(i) are more stringent than the Federal rules because they require the accumulation date to appear on the container label, whereas the Federal rules at 40 CFR 262.214(a)(1) and (b)(1) allow the information to be associated with, but not necessarily placed on, the container. Additional details regarding the more stringent State provisions associated with the State's adoption of the Federal Academic Laboratories Generator Standards are available in the docket.

c. Characteristic of Reactivity—On January 31, 1986 (51 FR 3782), the State received authorization for its dangerous waste identification rules including WAC 173–303–090(7) Characteristic of reactivity. On January 18, 2010 (75 FR 12989), the Federal rule at 40 CFR 261.23(a)(8) was revised to update the forbidden explosives regulation under 40 CFR 261.23 Characteristic of reactivity. The State revised the corresponding WAC 173–303–090(7)(a)(viii), but included Division 1.5 explosives (refer to the US Department of Transportation Hazardous Materials Class 1 explosives chart) not included in the Federal rule. As a result, the State's rule is more stringent than the Federal rule. Additional details regarding the more stringent State provisions associated with forbidden explosives under the characteristic of reactivity rule are available in the docket.

d. Exception Reporting—On January 18, 2010 (75 FR 12989), the Federal Hazardous Waste Technical Corrections and Clarifications rules were promulgated. Under 40 CFR 262.42(c)(2), the 35/45/60 day timeframes for exception reporting begin the date the waste was accepted by the initial transporter forwarding the hazardous waste from the designated facility to the alternate facility. The State rule at WAC 173–303–220(2)(e)(ii) is more stringent because it does not have a 60-day window for Medium Quantity Generators (equivalent to Federal Small Quantity Generators) to submit exception reports to the Washington State Department of Ecology. Additional details regarding the more stringent State provisions associated with Exception reports are available in the docket.

e. Independent Qualified Registered Professional Engineers—On December 18, 2014, the State adopted rule changes to require Independent Qualified Registered Professional Engineers (IQRPEs) to certify certain activities. The revised State rules at WAC 173–303–200(1)(b)(iv), 200(4)(a)(iv)(A)(III), 400(3)(c)(xxii)(B), 64690, 650(4)(c), 650(5)(d)(ii)(B), 665(2)(a)(i), 806(4)(d)(v), 806(4)(e)(iii)(A)(I), and 806(4)(h)(ii)(A)(I) are more stringent than corresponding Federal rules at 40 CFR 262.34(a)(1)(iv), 262.34(g)(4)(i)(C), 265.1101(c)(3)(iii), 264.554 (IBR, 045(1)), 264.226(c), 264.227(d)(2)(ii), 264.301(a)(1), 270.17(d), 270.18(c)(1)(i), and 270.21(b)(1)(i). Additional details regarding the more stringent State provisions associated with IQRPE requirements are available in the docket.

2. Broader in Scope

The State has added a time limit for special wastes that are stored at transfer stations under WAC 173–303–073(2)(e)(v) in this rule proposal. The federal rules do not regulate these special wastes which are state only wastes and defined at WAC 173–303–040; therefore, the regulation of these wastes is broader in scope than the federal rules. As noted above, broader in scope rules are not authorized by the EPA.

H. Who issues permits after the authorization takes effect?

Washington will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. Permits issued by EPA prior to authorizing Washington for these revisions would continue in force until the effective date of the State's issuance or denial of a State hazardous waste management permit, at which time, the EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian Country. The EPA will not issue new permits or new portions of permits for provisions for which Washington is authorized after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Washington is not yet authorized.

I. What is codification and is the EPA codifying Washington's hazardous waste program as authorized in this proposed rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. This is done by referencing the authorized State rules in 40 CFR part 272. The EPA is reserving the amendment of 40 CFR part 272, subpart WW for this authorization of Washington's program revisions until a later date.

J. How does today's action affect Indian Country (18 U.S.C. 1151) in Washington?

The EPA's proposed decision to authorize the Washington hazardous waste management program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151, with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the ''1873 Survey Area'' or ''Survey Area'') located in Tacoma, Washington. The EPA retains jurisdiction over ''Indian Country''. Effective October 22, 1998 (63 FR 50531, September 22, 1998) the State of Washington was authorized to implement the State's federally-authorized hazardous waste management program on the non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation. The authorization did not extend to trust lands within the reservation. The EPA retains its authority to implement RCRA on trust lands and over Indians and Indian activities within the 1873 Survey Area.

K. Statutory and Executive Order Reviews

This proposed rule seeks to revise the State of Washington's authorized hazardous waste management program pursuant to section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. This proposed rule complies with

applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'', and therefore subject to OMB review and the requirements of the EO. The EO defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the EO. The EPA has determined that this proposed rule is not a ''significant regulatory action'' under the terms of EO 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* because this proposed rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in Title 40 of the CFR are listed in 40 CFR part 9.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR part 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because the proposed rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. The EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcomes comments on issues related to such impacts.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the rule an explanation why the alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, the EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, today's proposed rule is not subject to the requirements of Sections 202 and 203 of the UMRA.

5. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among various levels of government, as specified in EO 13132 (64 FR 43255, August 10, 1999). This rule proposes to authorize pre-existing State rules. Thus, EO 13132 does not apply to this proposed rule. In the spirit of EO 13132, and consistent with the EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in EO 13175 because the EPA retains its authority over Indian Country. Thus, EO 13175 does not apply to this proposed rule. The EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it proposes to approve a state program.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under EO 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), (Pub. L. 104–113, 12(d)) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This proposed rule does not affect the level of protection provided to human health or the environment because this rule proposes to authorize pre-existing State rules which are equivalent to, and no less stringent than existing federal requirements.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This proposed action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: May 31, 2017.

Michelle Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–14733 Filed 7–12–17; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

[NIOSH Docket 094]

World Trade Center Health Program; Petitions 016 and 017—Parkinson's Disease and Parkinsonism, Including Manganese-Induced Parkinsonism; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petitions for addition of health conditions.

SUMMARY: On February 22, 2017, the Administrator of the World Trade Center (WTC) Health Program received a petition (Petition 016) to add Parkinson's disease and parkinsonism, including manganese-induced parkinsonism, to the List of WTC-Related Health Conditions (List). On May 10, 2017, the Administrator received a second petition (Petition 017) to add the same health conditions to the List. Upon reviewing the scientific and medical literature, including information provided by the two petitioners, the Administrator has determined that the available evidence does not have the potential to provide a basis for a decision on whether to add Parkinson's disease and/or parkinsonism, including manganese-induced parkinsonism, to the List. The Administrator also finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying these petitions for the addition of health conditions as of July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

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B. Petition 016 and Petition 017
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A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113), added Title XXXIII to the Public Health Service (PHS) Act,[1]

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm-61. Those portions of the James Zadroga 9/11 Health and Compensation Act of 2010 found in Titles II and III of Public Law 111–

establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.15 (2017). Within 90 days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) of the PHS Act and 42 CFR 88.16(a)(2): (1) Request a recommendation of the STAC; (2) publish a proposed rule in the **Federal Register** to add such health condition; (3) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (4) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (1) through (3) above. In accordance with 42 CFR 88.16(a)(4), the Administrator may consider more than one petition simultaneously when the petitions propose the addition of the same health condition(s) and the required **Federal Register** notices may respond to more than one petition.

In addition to the regulatory provisions, the WTC Health Program has developed policies to guide the review of submissions and petitions,[2] as well as the analysis of evidence supporting the potential addition of a non-cancer health condition to the List.[3] In accordance with the aforementioned non-cancer health condition addition policy, the Administrator directs the WTC Health Program to conduct a review of the scientific literature to determine if the available scientific information has the potential to provide a basis for a decision on whether to add the health condition to the List. The literature review includes a search for peer-reviewed, published, epidemiologic studies (including direct observational studies in the case of health conditions such as injuries) about the health condition among 9/11-exposed populations. The Program evaluates the scientific quality limitations of each peer-reviewed, published, epidemiologic study of the health condition identified in the literature search; the Program then compiles the scientific results of each study to assess whether a causal relationship between 9/11 exposures and the health condition is supported, and evaluates whether the results of the studies are representative of the 9/11-exposed population of responders and survivors. A health condition may be added to the List if peer-reviewed, published, epidemiologic studies provide support that the health condition is substantially likely[4] to be causally associated with 9/11 exposures. If the evaluation of evidence provided in peer-reviewed, published, epidemiologic studies of the health condition in 9/11 populations demonstrates a high, but not substantial likelihood of a causal association between the 9/11 exposures and the health condition, then the Administrator may consider additional highly relevant scientific evidence regarding exposures to 9/11 agents[5] from sources using non-9/11-exposed populations. If that additional assessment establishes that the health condition is substantially likely to be causally associated with 9/11 exposures among 9/11-exposed populations, the health condition may be added to the List.

B. Petition 016 and Petition 017

A valid petition must include sufficient medical basis for the association between the September 11, 2001, terrorist attacks and the health condition to be added; in accordance with WTC Health Program policy, reference to a peer-reviewed, published, epidemiologic study about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors may demonstrate the required medical basis.[6] Studies linking 9/11 agents to the petitioned health condition may also provide sufficient medical basis for a valid petition.

On February 22, 2017, the Administrator received a petition (Petition 016) from a WTC responder who worked at Ground Zero, requesting the addition of ''young onset Parkinson Disease''[7] and ''Parkinsonia Syndrome'' to the List. The petition included eight peer-reviewed, published studies and reviews of studies of parkinsonism associated with manganese exposure in non-9/11-exposed populations and laboratory animals, and mechanistic studies of manganese-induced parkinsonism, discussed below.[8] The Program noted the various terms used to describe the health condition in the petition and the references included with the petition. The general term ''Parkinsonism'' refers to a category of neurological diseases exhibiting disturbance in the dopamine systems of the basal ganglia, which leads to the symptoms characterizing the disease: Tremors, slowness of movement, and stiffness. Classic (idiopathic) Parkinson's disease is the most common and treatable form of parkinsonism; non-idiopathic types are considered atypical and referred to by the more general term ''parkinsonism.'' One type of atypical parkinsonism, manganese-induced parkinsonism, has been found to be caused by elevated and prolonged exposure to manganese.[9] The term ''Parkinsonia Syndrome,'' used by the petitioner, was likely intended to refer to ''Parkinsonian syndrome,'' a less-commonly used term for atypical parkinsonism.

The first of the eight peer-reviewed, published studies provided in Petition

347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] *See* WTC Health Program [2014], *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions,* May 14, *http://www.cdc.gov/wtc/pdfs/WTCHPPPPetitionHandlingProcedures14May2014.pdf.*

[3] *See* WTC Health Program [2017], *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,* February 14, *https://www.cdc.gov/wtc/pdfs/WTCHP_PP_Adding_NonCancers_14_February_2017.pdf.*

[4] The ''substantially likely'' standard is met when the scientific evidence, taken as a whole, demonstrates a strong relationship between the 9/11 exposures and the health condition.

[5] 9/11 agents are chemical, physical, biological, or other agents or hazards reported in a published, peer-reviewed exposure assessment study of responders or survivors who were present in the New York City disaster area, at the Pentagon site, or at the Shanksville, Pennsylvania site, as those locations are defined in 42 CFR 88.1.

[6] *See supra* note 2.

[7] The diagnosis of young-onset Parkinson's disease is the same as typical Parkinson's disease, except for the age of the patient.

[8] *See* Petition 016, WTC Health Program: Petitions Received, *http://www.cdc.gov/wtc/received.html.*

[9] *See* Kwakye GF, Paoliello MMB, Mukhopadhyay S, *et al.* [2015], *Manganese-Induced Parkinsonism and Parkinson's Disease: Shared and Distinguishable Features,* Int J Environ Res Public Health 12(7):7519–7540).

016, reference 1, ''Manganese-Induced Parkinsonism Is Not Idiopathic Parkinson's Disease: Environmental and Genetic Evidence'' by Guilarte *et al.* [2015],[10] is a review of various peer-reviewed and published epidemiologic and animal studies highlighting the difference between manganese-induced parkinsonism and Parkinson's disease. Reference 2, ''Manganese-Induced Parkinsonism and Parkinson's Disease: Shared and Distinguishable Features'' by Kwakye *et al.* [2015],[11] is also a review of peer-reviewed and published epidemiologic, animal, and mechanistic studies comparing characteristics of manganese-induced parkinsonism and Parkinson's disease. Reference 3, ''Inducible Nitric Oxide Synthase Gene Methylation and Parkinsonism in Manganese-Exposed Welders'' by Searles *et al.* [2015],[12] is an epidemiologic study examining gene methylation of inducible nitric oxide synthase, an enzyme involved in inflammation, among manganese-exposed welders. Reference 4, ''α-Synuclein Protects Against Manganese Neurotoxic Insult During the Early Stages of Exposure in a Dopaminergic Cell Model of Parkinson's Disease'' by Harischandra *et al.* [2015],[13] is an ex vivo laboratory study in rat cell lines exploring the effects of α-synuclein, a protein found in the brain, on manganese-induced dopaminergic neurotoxicity. Reference 5, ''SLC30A10 is a Cell Surface-Localized Manganese Efflux Transporter, and Parkinsonism-Causing Mutations Block its Intracellular Trafficking and Efflux Activity'' by Leyva-Illades *et al.* [2014],[14] is a mechanistic and functional cell culture study looking at the role of interactions between genetic and environmental factors in the development of parkinsonism. Reference 6, ''Correlation Between the Biochemical Pathways Altered by Mutated Parkinson-Related Genes and Chronic Exposure to Manganese'' by Roth [2014],[15] is a review of peer-reviewed, published studies describing genes involved in the development of parkinsonism and illustrating how the proposed mechanism of each gene may relate to the onset and severity of manganese toxicity. Reference 7, ''Manganese-Induced Atypical Parkinsonism is Associated with Altered Basal Ganglia Activity and Changes in Tissue Levels of Monoamines in the Rat'' by Bouabid *et al.* [2014],[16] is a study on changes to motor and non-motor functions and behavior, similar to those observed in parkinsonism, in manganese-exposed rats. Finally, reference 8, ''Neurofunctional Dopaminergic Impairment in Elderly After Lifetime Exposure to Manganese'' by Lucchini *et al.* [2014],[17] is an epidemiologic study of the effects of manganese exposure due to emissions from nearby ferroalloy plants on the neurocognitive and motor functions of elderly study participants.

The eight references offered as medical basis for Petition 016 suggested a potential association between exposure to the 9/11 agent manganese and manganese-induced parkinsonism and Parkinson's disease and established a sufficient medical basis to consider the submission a valid petition for manganese-induced parkinsonism. Although the petitioner requested the addition of ''young onset Parkinson Disease'' and ''Parkinsonia Syndrome,'' the medical basis provided by the petitioner primarily included studies concerning manganese-induced parkinsonism; therefore, the Administrator determined that the petitioner requested the addition of both Parkinson's disease and parkinsonism, including manganese-induced parkinsonism.

On May 10, 2017, the Administrator received a petition from a WTC survivor (Petition 017), requesting the addition of ''Parkinson's Disease'' to the List. The petition referenced five peer-reviewed, published, epidemiologic studies of heavy metal exposure, including manganese, and Parkinson's disease or parkinsonism in non-9/11-exposed populations.[18]

The first of the five peer-reviewed, published, epidemiologic studies provided in Petition 017, reference 1, ''Increased Risk of Parkinsonism Associated With Welding Exposure'' by Racette *et al.* [2012],[19] examined the prevalence and clinical characteristics of parkinsonism among workers exposed to welding fumes. Reference 2, ''Inducible Nitric Oxide Synthase Gene Methylation and Parkinsonism in Manganese-Exposed Welders'' by Searles *et al.* [2015],[20] was also cited as reference 3 in Petition 016, as discussed above. Reference 3, ''Multiple Risk Factors for Parkinson's Disease'' by Gorell *et al.* [2004],[21] evaluated the contribution of various occupational, lifestyle, and genetic risk factors, including manganese exposure, to the development of Parkinson's disease. Reference 4, ''Occupational Exposure to Manganese, Copper, Lead, Iron, Mercury and Zinc and the Risk of Parkinson's Disease'' by Gorell *et al.* [1999],[22] assessed the association between a variety of heavy metals and Parkinson's disease. Finally, reference 5, ''Whole-Body Lifetime Occupational Lead Exposure and Risk of Parkinson's Disease'' by Coon *et al.* [2006],[23] evaluated the role of chronic lead exposure among individuals with Parkinson's disease.

These five studies suggested a potential association between exposure to known 9/11 agents and Parkinson's disease and parkinsonism, including manganese-induced parkinsonism, and thus provided a sufficient medical basis to consider the submission a valid petition. Because the medical basis provided by the petitioner included studies concerning both Parkinson's disease and manganese-induced parkinsonism, the Administrator determined that the petitioner requested the addition of both Parkinson's disease and manganese-induced parkinsonism.

Since the Administrator determined that the scope of both Petition 016 and

[10] Guilarte TR, Gonzales KK [2015], *Manganese-Induced Parkinsonism is Not Idiopathic Parkinson's Disease: Environmental and Genetic Evidence,* Toxicol Sci 146(2):204–212.

[11] *Supra* note 9.

[12] Searles Nielsen S, Checkoway H, Criswell SR, *et al.* [2015], *Inducible Nitric Oxide Synthase Gene Methylation and Parkinsonism in Manganese-Exposed Welders,* Parkinsonism. Relat Disord 21(4):355–60.

[13] Harischandra DS, Jin H, Anantharam V, *et al.* [2015], *α-Synuclein Protects Against Manganese Neurotoxic Insult During the Early Stages of Exposure in a Dopaminergic Cell Model of Parkinson's Disease,* Toxicol Sci 143(2):454–468.

[14] Leyva-Illades D, Chen P, Zogzas CE, *et al.* [2014], *SLC30A10 Is a Cell Surface-Localized Manganese Efflux Transporter, and Parkinsonism-Causing Mutations Block Its Intracellular Trafficking and Efflux Activity,* J Neurosci 34(42):14079–14095.

[15] Roth, JA [2014], *Correlation Between the Biochemical Pathways Altered by Mutated Parkinson-Related Genes and Chronic Exposure to Manganese,* Neurotoxicology Sep;44:314–325.

[16] Bouabid S, Delaville C, De Deurwaerdère P, *et al.* [2014], *Manganese-Induced Atypical Parkinsonism Is Associated With Altered Basal Ganglia Activity and Changes in Tissue Levels of Monoamines in the Rat,* PLoS ONE 9(6):e98952.

[17] Lucchini RG, Guazzetti S, Zoni S, *et al.* [2014], *Neurofunctional Dopaminergic Impairment in Elderly After Lifetime Exposure to Manganese,* Neurotoxicology 0:309–17.

[18] *See* Petition 017, WTC Health Program: Petitions Received, *http://www.cdc.gov/wtc/received.html.*

[19] Racette BA, *et al.* [2012], *Increased Risk of Parkinsonism Associated With Welding Exposure,* Neurotoxicology 33(5):1356–1361.

[20] *Supra* note 12.

[21] Gorell JM, *et al.* [2004], *Multiple Risk Factors for Parkinson's Disease,* J Neurol Sci 217(2):169–174.

[22] Gorell JM, *et al.* [1999], *Occupational Exposure to Manganese, Copper, Lead, Iron, Mercury and Zinc and the Risk of Parkinson's Disease,* Neurotoxicology 20(2–3):239–247.

[23] Coon S, Stark A, Peterson E, *et al.* [2006], *Whole-Body Lifetime Occupational Lead Exposure and Risk of Parkinson's Disease,* Environ Health Perspect Dec;114(12):1872–6.

Petition 017 include requests for the addition of Parkinson's disease and parkinsonism, including manganese-induced parkinsonism, the Administrator decided to exercise his discretion, as permitted by 42 CFR 88.16(a)(4), to combine consideration of the petitions and issue a single **Federal Register** notice.

C. Review of Scientific and Medical Information and Administrator Determination

In response to Petition 016 and Petition 017, and pursuant to the Program policy on the addition of non-cancer health conditions to the List,[24] the Program conducted reviews of the scientific literature on Parkinson's disease and parkinsonism, including manganese-induced parkinsonism.[25]

Neither the references provided in the petitions nor the literature search conducted by the Program identified any peer-reviewed, published, epidemiologic studies of either Parkinson's disease or parkinsonism, including manganese-induced parkinsonism, in 9/11-exposed populations. Since no peer-reviewed, published, epidemiologic studies of Parkinson's disease or parkinsonism, including manganese-induced parkinsonism, in 9/11 populations were identified, the Program was unable to conduct an evaluation of scientific evidence to determine the likelihood of a causal association between 9/11 exposures and the petitioned health conditions.

D. Administrator's Final Decision on Whether To Propose the Addition of Parkinson's Disease and/or Manganese-Induced Parkinsonism to the List

Because no peer-reviewed, published, epidemiologic studies of Parkinson's disease or parkinsonism, including manganese-induced parkinsonism, in 9/11 populations were identified, the Administrator has determined that insufficient evidence is available to take further action at this time, including either proposing the addition of Parkinson's disease or parkinsonism, including manganese-induced parkinsonism, to the List (pursuant to PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.16(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.16(a)(2)(iii)). The Administrator has also determined that requesting a recommendation from the STAC (pursuant to PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.16(a)(2)(i)) is unwarranted.

For the reasons discussed above, the Petition 016 and Petition 017 requests to add Parkinson's disease and/or parkinsonism, including manganese-induced parkinsonism, to the List of WTC-Related Health Conditions are denied.

E. Approval To Submit Document to the Office of the Federal Register

The Secretary, HHS, or his designee, the Director, Centers for Disease Control and Prevention (CDC) and Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), authorized the undersigned, the Administrator of the WTC Health Program, to sign and submit the document to the Office of the Federal Register for publication as an official document of the WTC Health Program. Anne Schuchat, M.D., Acting Director, CDC, and Acting Administrator, ATSDR, approved this document for publication on July 6, 2017.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2017–14559 Filed 7–12–17; 8:45 am]

BILLING CODE 4163–18–P

[24] *Supra* note 3.

[25] Databases searched include: Embase, NIOSHTIC–2, ProQuest Health & Safety, PsycINFO, PubMed, Scopus, Toxicology Abstracts, and TOXLINE.

Notices

Federal Register
Vol. 82, No. 133
Thursday, July 13, 2017

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

Submission for OMB Review; Comment Request

July 10, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) 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) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; (4) 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.

Comments regarding this information collection received by August 14, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: RUS Form 87, Request for Mail List Data.

OMB Control Number: 0572–0051.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture. The agency makes loans (direct and guaranteed) to finance electric and telecommunications facilities in rural areas in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 as amended, (ReAct). RUS Electric Program provides support to the vast rural American electric infrastructure. RUS' Telecommunications Program makes loans to furnish and improve telephone services and other telecommunications purposes in rural areas.

Need and Use of the Information: RUS will collect information using RUS Form 87, Request for Mail List Data. The information is used for the RUS Electric and Telephone programs to obtain the name and addresses of the borrowers' officers/board of directors and corporate officials, who are authorized to sign official documents and/or to make official representations concerning borrower operations and management. RUS uses the information to assure that (1) accurate, current, and verifiable information is available; (2) correspondence with borrowers is properly directed; and (3) the appropriate officials have signed the official documents submitted. Failure to collect information from borrowers could result in failure to protect the government's security interest when determining eligibility and administering loan programs.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 980.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 245.

Rural Utilities Service

Title: Technical Assistance Program, 7 CFR part 1775.

OMB Control Number: 0572–0112.

Summary of Collection: Section 306 of the Consolidated Farm and Rural Development Act (CONACT), 7 U.S.C. 1926, authorizes Rural Utilities Service (RUS) to make loans and grants to public agencies, American Indian tribes, and nonprofit corporations. The loans and grants fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Nonprofit organizations receive Technical Assistance and Training (TAT) and Solid Waste Management (SWM) grants to help small rural communities or areas identify and solve problems relating to community drinking water, wastewater, or solid waste disposal systems. The technical assistance is intended to improve the management and operation of the systems and reduce or eliminate pollution of water resources. TAT and SWM are competitive grant programs administered by RUS.

Need and Use of the Information: Nonprofit organizations applying for TAT and SWM grants must submit a pre-application, which includes an application form, narrative proposal, various other forms, certifications and supplemental information. RUS will collect information to determine applicant's eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements. RUS will review the information, evaluate it, and, if the applicant and project are eligible for further competition, invite the applicant to submit a formal application. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grants authorized by the TAT and SWM program.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents: 82.

Frequency of Responses: Reporting: On occasion; Quarterly.

Total Burden Hours: 6,369.

Rural Utilities Service

Title: Public Television Digital Transition Grant Program.

OMB Control Number: 0572–0134.

Summary of Collection: Beginning in 2003 the Omnibus Appropriations Act (Public Law 108–7) provided grant funds in the Distance Learning and Telemedicine Grant Program budget, the

Consolidated Appropriations Act (Public Law 108–199) and the Consolidated Appropriations Act, 2005 (Public Law 108–447) provided additional funds for public broadcasting systems to meet the digital transition. As part of the nation's transition to digital television, the Federal Communications Commission (FCC) required all television broadcasters to initiate the broadcast of a digital television signal and to cease analog television broadcasts on February 18, 2009. While stations must broadcast its main transmitter signal in digital, many rural stations often have translators serving small or isolated areas and some of these have not completed the transition to digital or fully converted its production and studio equipment to digital. Because the FCC deadline did not apply to translators, they are allowed to continue broadcasting in analog. The digital transition also created some service gaps where households receiving an analog signal cannot receive a digital signal. For these reasons the grant program has continued past the FCC digital transition deadline until 2014. The Public Television Digital Transition Grant Program is no longer funded.

Need and Use of the Information: There are past awardees that remain in the program and the Agency continues to collect information from them. Awardees still in the program must complete SF–475 ''Federal Financial Report'' to submit financial information and SF–270 ''Request for Advance or Reimbursement'' to request payments. If this information is not collected, there would be no basis advancing grant funds to the grant recipients or for ensuring that the project funding is used for intended purposes.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 15.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1 hour place holder.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–14681 Filed 7–12–17; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0025]

Availability of an Environmental Assessment for Release of Three Parasitoids for Biological Control of the Lily Leaf Beetle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental assessment relative to the release of three parasitoids, *Diaparsis jucunda, Lemophagus errabundus,* and *Tetrastichus setifer* for the biological control of the lily leaf beetle. The environmental assessment considers the effects of, and alternatives to, the field release of the parasitoids into the contiguous United States for use as a biological control agent to reduce the severity of infestations of lily leaf beetle. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 14, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0025.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0025, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0025* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2327, email: *Colin.Stewart@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Lilies (*Lillium* spp.) and fritillaries (*Fritillaria* spp.) are prized for their blooms, whether the showy and enormous Asiatic hybrids or the subtle, fleeting flowers of fritillaries. The aesthetic value of lilies and fritillaries extends to wild lands, where the flowers are a significant visual feature during their bloom, adorning alpine ridges, swampy bottomlands, and desert shrublands alike. The lily leaf beetle, *Lilioceris lilii* (Coleptera: Chrysomelidae), an aggressive pest of lilies and fritillaries, has expanded its range rapidly over the past decade, and is now found in several northeastern and central States, across Canada, and in Washington State. Further expansion is expected based on its historical distribution in nearly all of Europe and parts of North Africa. The Washington State Department of Agriculture is proposing to release three insect parasitoid species for the biological control of the lily leaf beetle; none of these species have been previously released or established in Washington State. The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the field release of the parasitoids *Diaparsis jucunda, Lemophagus errabundus,* and *Tetrastichus setifer* into the continental United States to reduce the severity of lily leaf beetle infestations.

APHIS' review and analysis of the proposed action are documented in detail in a draft environmental assessment (EA) entitled ''Field release of *Diaparsis jucunda* (Hymenoptera: Ichneumonidae), *Lemophagus errabundus* (Hymenoptera: Ichneumonidae), and *Tetrastichus setifer* (Hymenoptera: Eulophidae) for biological control of the lily leaf beetle, *Lilioceris lilii* (Coleoptera: Chrysomelidae) in the Contiguous United States'' (January 2017). We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the *Regulations.gov* Web site or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et*

seq.); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 7th day of July 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–14694 Filed 7–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0053]

Availability of an Environmental Assessment for the Biological Control of Swallow-Worts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental assessment relative to the control of swallow-worts (*Vincetoxicum nigrum* and *Vincetoxicum rossicum*). The environmental assessment considers the effects of, and alternatives to, the field release of a leaf-feeding moth, *Hypena opulenta,* into the continental United States for use as a biological control agent to reduce the severity of swallow-wort infestations. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 14, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0053.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0053, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0053* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2327, email: *Colin.Stewart@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: Two species of swallow-wort (*Vincetoxicum nigrum* and *Vincetoxicum rossicum*), native to Mediterranean regions of Europe (*V. nigrum*) and Ukraine and southeastern Russia (*V. rossicum*), were first documented in the United States in the late nineteenth century and are now widely distributed along the northeast Atlantic coast and in Ontario and Quebec in Canada, as well as in upper Midwestern regions of the United States. Swallow-worts are long-lived vines that overwinter as seeds or rootstalks, and they outcompete native plants for resources while often also forming dense monocultures in a variety of habitats. Swallow-wort invasions in primarily upland habitats including, but not restricted to, pastures, old fields, hillsides, shores, flood plains, roadsides, and forest margins, pose a major threat to native species diversity and ecosystem functioning and negatively affect farming practices, livestock, and ornamental landscapes. The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the field release of a leaf-feeding moth, *Hypena opulenta,* into the continental United States to reduce the severity of swallow-wort infestations.

APHIS' review and analysis of the proposed action are documented in detail in a draft environmental assessment (EA) entitled ''Field release of the leaf-feeding moth, *Hypena opulenta* (Christoph) (Lepidoptera: Noctuidae), for classical biological control of swallow-worts, *Vincetoxicum nigrum* (L.) Moench and *V. rossicum* (Kleopow) Barbarich (Gentianales: Apocyanceae), in the contiguous United States'' (June 2017). We are making this EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the *Regulations.gov* Web site or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 7th day of July 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–14695 Filed 7–12–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers' Market Nutrition Program (FMNP) Program Regulations—Reporting and Recordkeeping Burden

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved information collection for the WIC Farmers' Market Nutrition Program (FMNP) Regulations for the reporting and recordkeeping burden associated with the WIC FMNP Program regulations.

DATES: Written comments must be received on or before September 11, 2017.

ADDRESSES:

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Kurtria Watson, Chief, Policy Branch, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 524, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Kurtria Watson at 703–305–2196 or via email to *Kurtria.Watson@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Kurtria Watson at 703–605–4387.

SUPPLEMENTARY INFORMATION:

Title: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers' Market Nutrition Program (FMNP) Regulations—Reporting and Recordkeeping Burden.

Form Number: N/A.

OMB Number: 0584–0447.

Expiration Date: November 30, 2017.

Type of Request: Revision of a currently approved collection.

Abstract: The WIC Farmers' Market Nutrition Program (FMNP) is associated with the Special Supplemental Nutrition Program for Women, Infants, and Children, also known as WIC. The WIC Program provides supplemental foods, health care referrals, and nutrition education at no cost to low-income pregnant, breastfeeding and non-breastfeeding post-partum women, and to infants and children up to 5 years of age, who are found to be at nutritional risk. The purpose of the WIC Farmers' Market Nutrition Program (FMNP) is to provide fresh, nutritious, unprepared, locally grown fruits and vegetables through farmers' markets and roadside stands to WIC participants, and to expand awareness and use of, and sales at, farmers' markets and roadside stands. Currently, FMNP operates through State health departments in 39 States, 6 Indian Tribal Organizations, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Section 17(m)(8) of the Child Nutrition Act of 1966, 42 U.S.C. 1786(m)(8), and the WIC Farmers' Market Nutrition Program (FMNP) regulations at 7 CFR part 248 require that certain program-related information be collected and that full and complete records concerning FMNP operations are maintained. The information reporting and recordkeeping burdens are necessary to ensure appropriate and efficient management of the FMNP program. These burden activities are covered by this Information Collection Request (ICR) which include requirements that involve the authorization and monitoring of State agencies; the certification of FMNP participants; the nutrition education that is provided to participants; farmer and market authorization, monitoring, and management; and financial and participation data (using FNS 683 B approved under OMB Control Number: 0584–0594, Expiration Date: 06/2019). State plans (using FNS 339 approved under OMB Control Number: 0584–0332, Expiration Date: 02/2019) are the principal source of information about how each State agency operates its FMNP program. Information collected from participants and local agencies is collected through State-developed forms or Management Information Systems. The information collected is used by the Department of Agriculture to manage, plan, evaluate, make decisions and report on FMNP program operations.

Revisions in burden hours are due to program adjustments that primarily reflect expected changes in the number of Individuals/Household FMNP participants; this affected public was not included in the currently approved information collection request. The oversight is being remedied with this request and we are now including the burden on individuals/households. Additionally, there are changes to the number of FMNP authorized farmers and markets; and FMNP authorized State agencies who are participating in this program.

The currently approved burden for this collection is 23,661. FNS is seeking 931,145, an increase of 907,484 burden hours. The currently approved total annual responses is 18,433.68. We are requesting 4,968,387 which is an increase of 4,949,953.35 total annual responses. The currently approved reporting burden is 23,331.98; we are requesting 517,177. This revision increased the reporting burden by 493,845 hours. The currently approved burden for recordkeeping is 329 and we are requesting 413,968. This increased the recordkeeping burden by 413,639, and increased the total approved reporting and recordkeeping burden by 907,484 hours.

Affected Public: Respondents include State agencies, local agencies and Indian Tribal Organizations, Individuals/Households (participants), and authorized FMNP outlets (farmers, farmers' markets, roadside stands).

Estimated Number of Respondents: The total estimated number of respondents is 1,660,227. This includes: State agencies (49), local agencies & Indian Tribal Organizations (980), Individuals/Households (1,646,589 participants), and authorized FMNP outlets (farmers, farmers' markets, roadside stands) (12,560).

Estimated Number of Responses per Respondent: The total estimated number of responses per respondent for this collection is 3.

Estimated Total Annual Responses: The total estimated number of annual responses for this collection is 4,968,387.

Estimated Time per Response: The estimated time per response averages .19 hours for all participants. For the reporting burden, the estimated time of response varies from approximately 1 minute to 40 hours, while the estimated time of response for the recordkeeping burden varies from 15 minutes to 40 hours, depending on the respondent group.

Estimated Total Annual Burden on Respondents: The estimated total annual burden on respondents for this collection is 931,145 hours. The reporting and recordkeeping burden is 517,177 and 413,968 hours, respectively.

See the table below for the estimated total annual burden for each type of respondent.

ESTIMATE OF THE FMNP COLLECTION OF INFORMATION BURDEN TABLE							
Regulatory Section	**Information Collected**	**Form(s)**	**Estimated Number of Respondents**	**Annual Responses per Respondent**	**Total Annual Responses**	**Hours per Response**	**Total Annual Burden Hours**
REPORTING BURDEN ESTIMATES							
Affected Public: STATE & LOCAL AGENCIES (Including Indian Tribal Organizations and U.S. Territories)							
248.2, 248.3(e), 246.5	Local Agency Applications		980	0.5	490	2	980
248.4	State Plan	FNS-339	49	1	49	40	1,960
248.6, 246.7(c)	Certification Data for Participants		49	33,604	1,646,589	0.25	411,647
248.10(a)(2),(3),(b)	Authorization - Review of Outlet Applications (Farmers, Farmers' Market, Roadside Stand)		49	256	12,560	1	12,560
248.10(e)	Monitoring/Review of Authorized Outlets		49	51.27	2,512	1.50	3,768
248.10(f)	Coupon Management System		49	1	49	5	245
248.10(h)	Coupon Reconciliation		49	1	49	3	147
248.11	Financial Management System		49	1	49	10	490
248.17(b)(2)(ii)	State Agency Corrective Action Plan		7	1	7	10	70
248.18(b)	Audit Responses		1	1	1	15	15
248.2, 248.3(e), 246.6	Local Agency Applications		980	1.5	1,470	8	11,197
248.6, 246.7	Annual Financial and Program Data Report	FNS-683B	49	1	49	40	1,960
Subtotal Reporting: State and Local Agencies (Including Indian Tribal Organizations and U.S. Territories)s			**1,029**	**1,615.55**	**1,662,404**	**0.26**	**433,842**
Affected Public: INDIVIDUALS/HOUSEHOLDS (Applicants for Program Benefits)							
248.6, 246.7	Certification Data for Participants		1,646,589	1.00	1,646,589	0.05	82,329
Subtotal Reporting: Individuals/Households			**1,646,589**	**1**	**1,646,589**	**0.05**	**82,329**
Affected Public: AUTHORIZED OUTLETS (Farmers/Markets/Roadside Stands)							
248.10(b)	Authorized outlets		12,560	1.00	12,560	0.08	1,005

Subtotal Reporting: Authorized Outlets			**12,560**	**1**	**12,560**	**0.08**	**1,005**
GRAND SUBTOTAL: REPORTING			**1,660,178**	**2.00**	**3,321,553**	**0.16**	**517,177**
RECORD-KEEPING BURDEN ESTIMATES							
Affected Public: STATE & LOCAL AGENCIES (Including Indian Tribal Organizations and U.S. Territories)							
248.9	Nutrition Education		49	33,604	1,646,589	0.25	411,647
248.10(b)	Authorized Outlet Agreements		49	1	49	2	104
248.10(e)	Monitoring and Review of Authorized Outlets		49	1	49	2	104
248.11	Record of Financial Expenditures		49	1	49	2	104
248.16(a)	Fair Hearings		49	1	49	1	49
248.23(a)	Record of Program Operations		49	1	49	40	1,960
GRAND SUBTOTAL: RECORD-KEEPING			**49**	**33,608.86**	**1,646,834**	**0.25**	**413,968**
GRAND TOTAL: REPORTING AND RECORD-KEEPING			**1,660,227**	**2.99**	**4,968,387**	**0.19**	**931,145**

Note: FNS-339 (WIC Federal and State Agreement), OMB Control No.: 0584-0332, Expiration Date: 2/28/2019
FNS FNS-683B (WIC Farmers' Market Nutrition Program (FMNP) Annual Financial and Program Data Report) OMB Control No.: 0584-0594; Expiration Date: 6/30/2019

Dated: June 29, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service, USDA.

[FR Doc. 2017–14623 Filed 7–12–17; 8:45 am]

BILLING CODE 3410–30–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: July 26, 2017, 1:00 p.m. EDT.

PLACE: U.S. Chemical Safety Board, 1750 Pennsylvania Ave. NW., Suite 910, Washington, DC 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on July 26, 2017, starting at 1:00 p.m. EDT in Washington, DC, at the CSB offices located at 1750 Pennsylvania Avenue NW., Suite 910. The Board Members will discuss open investigations, the status of audits from the Office of the Inspector General, financial and organizational updates, and a review of the agency's action plan. The Board will also discuss the ExxonMobil Baton Rouge investigation. An opportunity for public comment will be provided.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the **CONTACT PERSON FOR FURTHER INFORMATION**, at least three business days prior to the meeting.

A conference call line will be provided for those who cannot attend in person. Please use the following dial-in number to join the conference: (888) 466–9863 Confirmation Number 8812164#.

The CSB is an independent, non-regulatory federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical incidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Public Comment

The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to three minutes or less, but commenters may submit written statements for the record.

CONTACT PERSON FOR FURTHER INFORMATION: Hillary Cohen, Communications Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB Web site at: *www.csb.gov.*

Dated: July 10, 2017.

Kara A. Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2017–14864 Filed 7–11–17; 4:15 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2018 End-to-End Census Test—Peak Operations.

OMB Control Number: 0607–xxxx.

Form Number(s):

Questionnaires

DH–1
DH–1(E/S)
DH–1(UL)
DH–1(E/S) UL
DH–20
DH–20(S)
DH–61(ICQ) Informational Copy
DH–61(ICQ)(S) Informational Copy

Questionnaire Cover Letters

DH–16(L1)
DH–16(L1)(E/S)
DH–16(L2)
DH–16(L2)(E/S)
DH–16(L3)
DH–16(L3)(E/S)
DH–16(L4)
DH–16(L4)(E/S)
DH–17(L1)
DH–17(L1)(E/S)

Update Leave

DH–16(L2)(UL)
DH–16(L2)(UL)(E/S)

Nonresponse Follow-Up

DH–16(LN)
DH–16(LN)(E/S)

Postcards

DH–9(P)
DH–9(P)(E/S)
DH–9(C)
DH–9(C)(E/S)
DH–9
DH–9(E/S)
DH–9(AR)(E/S)

Information Inserts

DH–17(CQA)
DH–17I(E/S)
DH–17I(E/S)P1

Envelopes

DH–5(E/S)
DH–5(GQ)
DH–5(eResponse)
DH–6A(IN)(UL)(E/S)
DH–6A(IN)
DH–6A(IN)(E/S)
DH–6B(IN)(E/S)
DH–6A(1)(IN)(E/S)
DH–8A
DH–8A(E/S)
DH–40
DH–40(S)
DH–40(GQ)

Brochures

DH–1183 GQE
DH–1184 SBE

Group Quarters Facility Manager Letters

DH–18(eResponse)
DH–18(GQ)
DH–30(L)(FM)(E/S)
DH–30(L)(HC)(E/S)
DH–30(L)(SH)(E/S)

Confidentiality Notice

DH–31(GQ)(E/S)
DH–31(UL)(E/S)

Field Materials

DH–26(E/S)
DH–28(E/S)
DH–28(MU)(E/S)

Re-Interview Form

DH–941(GQE)

Living Quarters Flashcard

DH–1028.4
DH–1028.4(S)

Enumeration Records

Group Quarters Enumeration Record
Regularly Scheduled Mobile Food Van Enumeration Record
Shelter Enumeration Record
Soup Kitchen Enumeration Record
Targeted Non-Sheltered Outdoor Location Enumeration Record

Group Quarters Advance Contact Call Scripts

Soup Kitchen

Non-SBE Group Quarters
Emergency and Transitional Shelters
Mobile Food Vans

Group Quarters eResponse

eResponse video script
eResponse template

Group Quarters Field Materials

DH–116
DH–1054(GQE)
DH–1054(SBE)
DH–1055(GQE)
DH–1059(SE)

Field Enumeration Instrument Specifications

Field Verification (FV)
Non-Response Follow-up/Update Leave Follow-up (NRFU/ULF)
Multi-Unit Manager Visit (MU)
NRFU Re-interview (RI)
Multi-Unit Manager Visit Re-interview (MU RI)

Instrument Specifications

Census Questionnaire Assistance Specifications

Coverage Improvement Screenshots

Type of Request: New Collection.

Number of Respondents: 336,645.

Average Hours Per Response: 10 minutes.

Burden Hours: 55,886 hours.

TEST SITE—PROVIDENCE COUNTY, RHODE ISLAND

Operation or category	Estimated number of respondents	Estimated time per response (minutes)	Total burden hours
Self-Response—Internet/Telephone/Paper	114,000	10	19,000
Nonresponse Follow-up	163,000	10	27,167
Nonresponse Follow-up Re-interview	16,300	10	2,717
Update Leave Production	2,000	5	167
Update Leave QC	300	5	25
GQ Advance Contact (facility)	500	10	83
GQ SBE—facility contact	40	10	7
GQ SBE—person contact	1,600	10	267
GQ Enumeration—facility contact	500	10	83
GQ Enumeration—person contact	28,000	10	4,667
Group Quarters QC	50	5	4
Non-ID Processing Phone Follow-up	115	5	10
Re-collect	4,600	10	767
Field Verification	140	2	5
Coverage Improvement	5,500	10	917
Totals	336,645	.....	55,886

Needs and Uses: During the years preceding the 2020 Census, the Census Bureau will pursue its commitment to reduce the costs of conducting a decennial census while maintaining our commitment to quality. In 2018, the Census Bureau will be performing the 2018 End-to-End Census Test. This last major test before the 2020 Census is designed to (1) test and validate 2020 Census operations, procedures, systems, and field infrastructure to ensure proper integration and conformance with requirements, and (2) produce prototypes of geographic and data products.

New approaches to the design of the 2020 Census are classified into four key innovation areas. These areas have been the subject of Census Bureau testing this decade to identify methodological improvements, technological advances, and possibilities for cost savings. One of these innovation areas is Optimizing Self-Response, which is focused on improving methods for increasing the number of people who take advantage of self-response options, including responding by internet. The 2018 End-to-End Census Test is designed to evaluate several strategies for optimizing self-response, including two contact strategies, either or both of which may be included in the design of the 2020 Census. Two of the other innovation areas—Utilizing Administrative Records and Third-Party Data and Reengineering Field Operations—will be incorporated into the functionality that will be tested in this test. In particular, this Peak Operations portion of the 2018 End-to-End Census Test will encompass operations and systems related to (1) Optimizing Self-Response, including contact strategies, questionnaire content, and language support; (2) Update Leave (UL), including technological and operational testing; (3) Nonresponse Follow-up (NRFU), including technological and operational improvements; and (4) Group Quarters (GQ), including technological and operational testing. The UL and GQ operations are being fielded for the first time this decade.

The remaining innovation area—Reengineering Address Canvassing—contains innovations that have been tested in the 2016 Address Canvassing test and in the 2018 End-to-End Census Test Address Canvassing. The 2018 End-to-End Census Test Address Canvassing precedes the enumeration operations included in and creates the address list for this 2018 End-to-End Census Test Peak Operations test. The Address Canvassing portion of this test was described in an earlier **Federal Register** Notice and included in a different OMB clearance due to timing considerations.

Optimizing Self-Response is focused on improving methods for increasing the number of people who take advantage of self-response options. The 2018 End-to-End Census Test will include two different mailing strategies to optimize the rate at which the public self-responds to the decennial census, thereby reducing costs of the 2020 Census by decreasing the workload for following up at nonresponding units.

Internet First is the primary mail contact strategy proposed for the 2020 Census and has been used in Census Bureau research and testing efforts since 2012. (In previous tests, this strategy was called Internet Push.) This strategy includes the mailing of a letter encouraging respondents to complete the questionnaire online, two follow-up reminders, after which a paper questionnaire is mailed to nonresponding housing units. A final reminder postcard is the last mailing.

Internet Choice includes a paper questionnaire in the first mailing, along with an invitation to complete the questionnaire online, providing a choice of internet or paper response from the beginning of the contact strategy. (Subsequent mailings are of the same number and type as the Internet First strategy.) This strategy is targeted to households in areas least likely to respond online, as indicated by a number of factors, including internet availability and historical census response rates.

In addition, the 2018 End-to-End Census Test provides the Census Bureau with an opportunity to enhance the user experience, performance, and functionality of the internet self-response instrument.

The Update Leave (UL) operation is designed for areas where the Census Bureau has concerns about accurate mail delivery and needs to determine the Census block location of each housing unit. The current design capitalizes on 2020 Census methodological improvements such as internet self-response and automated field operations. UL is conducted mostly in geographic areas that have one or more of the following characteristics:

- Do not have city-style addresses like 123 Main Street.
- Do not receive mail through city-style addresses.
- Receive mail at post office boxes rather than at physical addresses.
- Have unique challenges associated with accessibility, such as dirt roads or seasonal access.
- Have recently been affected by natural disasters.
- Have high concentrations of seasonally vacant housing.

The following objectives are being tested for Update Leave:

- Integrating listing operation and systems.
- Testing the ability to link a questionnaire ID to an address.
- Testing field supervisor to enumerator ratios.

The 2018 End-to-End Census Test will allow the Census Bureau to continue to refine, optimize, and assess the operational procedures and technical design of the Nonresponse Follow-up (NRFU) operation. NRFU is a field operation for determining housing unit status (occupied, vacant, or delete) and for gathering the enumeration data at addresses for which no self-response was received. This test will build on the results of previous field tests this decade where the NRFU operation has been conducted. In particular, NRFU is now a fully automated operation, whereas it was performed using paper materials in the 2010 Census.

The 2018 End-to-End Census Test will inform Census Bureau technological and operational planning and design for the enumeration of the population residing in group quarters (GQs). GQs are living quarters where people who are typically unrelated have group living arrangements and frequently are receiving some type of service. College/University student housing and nursing/skilled-nursing facilities are examples of GQs. To date, some small-scale testing has been done to test electronic transmission of GQ's enumeration responses. The 2018 End-to-End Census Test expands on these results to allow the opportunity to evaluate procedures and technologies for conducting GQ enumeration operations. The set of operations planned for GQ enumeration is GQ Advance Contact, Service-Based Enumeration, and, finally, GQ Enumeration. These operations have been used in previous censuses. The GQ Advance Contact is an operation where facility contact and planning data are collected, including the ability of the GQ facility to provide electronic records for the enumeration. Service-Based Enumeration has the objective of counting individuals who will not be enumerated at a living quarter but are receiving some type of service. The GQ Enumeration is the final stage of enumerating individuals residing at the GQ.

The Census Bureau recognizes that the OMB is continuing to lead the discussion among federal agencies and other stakeholders on race/ethnicity from the perspective of data collection and dissemination guidance and standards, and that the final determination has not been made on the format of the race/ethnicity question for the 2020 Census. If it is determined that the combined race/ethnicity question format may be used for the 2020 Census (versus the separate race and Hispanic Origin questions used for the 2010 Census), it will be crucial for the Census Bureau to ensure that critical operations are fully prepared to go into production for the 2020 Census using the combined question.

Therefore, the 2018 End-to-End Census Test data collection operations will use the combined race/ethnicity question version (which also includes a Middle Eastern or North African category) to further its analysis and understanding of mode differences for the race/ethnicity responses before deploying the 2020 Census questionnaire. Particular test objectives are:

- *Internet Self-Response:* Continue testing the combined race/ethnicity question under the further enhancements of the internet self-response instrument for the 2018 End-to-End Census Test in regards to user experience, performance, and functionality; and ensure that the resulting response data and Para data meet the requirements of follow-up and data processing operations.
- *Nonresponse Follow-up:* Continue testing the combined race/ethnicity question under the further enhancements of the field enumeration instrument; assess enumerators' experience with the field enumeration instrument and their navigation of the race/ethnicity question within the instrument. Input will be gathered during the post-operation field enumerator debriefing sessions.
- *Update Leave and Group Quarters:* Examine the 2018 End-to-End Census Test results by mode, including Update Leave and Group Quarters operations, which will be fielded for the first time this decade.

The results of this test will inform the Census Bureau's final preparations in advance of the 2020 Census. In particular, conducting a live operation will ensure all the systems, instruments, and processes are functioning correctly or will provide indicators of what needs to be fixed. In addition, metrics collected during the operation will provide additional data to be used for budget and operational planning purposes.

Affected Public: Individuals or Households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–14726 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Wholesale Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before September 11, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Susan Pozzanghera, Economy-Wide Statistics Division, U.S. Census Bureau, (301) 763–7169 or via email at *ewd.annual.wholesale.trade.survey@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Wholesale Trade Survey (AWTS) covers employer firms with establishments located in the United States and classified in wholesale trade sector as defined by the North American Industry Classification System (NAICS). This sector includes distributors, manufacturers' sales branches and offices, as well as agents and brokers.

Firms are selected for this survey using a stratified random sample where strata are defined by type of operation, industry, and annual sales size. The sample is drawn from the Business Register (BR), which is the Census Bureau's master business list containing basic economic information for over 7.4 million employer businesses and over 22.5 million non-employer businesses.

The BR obtains information using direct data collections and administrative record information from federal agencies. The AWTS sample is updated quarterly to reflect business ''births'' and ''deaths'' by adding newly established employer businesses and deleting companies when it is determined they are no longer active.

The AWTS introduced a new sample for 2016. The Census Bureau requested two years of data from all sample firms in order to link the old and new samples, ensuring that the published estimates continue to be reliable and accurate. The 2017 AWTS and subsequent years will request one year of data until a new sample is selected again in five years. The 2017 AWTS will also collect detailed business expenditure items and sales tax data, in response to a request for this data from the Bureau of Economic Analysis (BEA). These data items are collected on the AWTS survey in years ending in 2 and 7, which coincide with the economic census collection.

The AWTS data is collected electronically using the Census Bureau's secure online reporting instrument (Centurion). This electronic system of reporting is designed to allow respondents easier access, convenience and flexibility. In the few cases of companies that have no access to the Internet, the Census Bureau can arrange for the companies to provide data to an analyst via telephone.

The AWTS survey collects data on annual sales, e-commerce sales, operating expenses, purchases, commissions, and year-end inventories. There are five electronic form types based on the specific type of operation and structure of the sampled firm. Each form asks a different subset of the items listed above based on relevance to their type of operation. These data are used to satisfy a variety of public and business needs such as economic market analysis, company performance, and forecasting future demands. The Bureau of Economic Analysis uses the data in developing the Nation's Gross Domestic Product (GDP) estimates and the national accounts' input-output tables. The Bureau of Labor Statistics uses the data as an input to its producer price indices and in developing productivity measurements.

Results will be available by type of operation and item collected at the United States summary level approximately fifteen months after the end of the reference year.

II. Method of Collection

The Census Bureau primarily collects this information via the Internet and, in rare cases when respondents have no access to the internet, by telephone.

III. Data

OMB Control Number: 0607–0195.

Form Number(s): SA–42, SA–42A, SA–42A (MSBO), SA–42(AGBR), SA–42A (AGBR).

Type of Review: Regular submission.

Affected Public: Wholesale firms located in the United States.

Estimated Number of Respondents: 8,900.

Estimated Time per Response: 93.6 minutes (2017 survey year-additional items collected); 28.8 minutes (2018 and 2019 survey years).

Estimated Total Annual Burden Hours: 13,884 hours (2017 survey year-additional items collected); 4,272 hours (2018 and 2019 survey years).

Estimated Total Annual Cost to Public: $0.

Respondents Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–14724 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–507–502]

Certain In-Shell (Raw) Pistachios From the Islamic Republic of Iran: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) and the International

Trade Commission (the ITC) have determined that revocation of the antidumping duty order on certain in-shell (raw) pistachios (pistachios) from the Islamic Republic of Iran (Iran) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States. Therefore, the Department is publishing a notice of continuation of this order.

DATES: Effective July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Madeline Heeren, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–9179.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1986, the Department published the antidumping duty order on certain in-shell pistachios from Iran.[1] On April 1, 2016, the Department initiated [2] and the ITC instituted [3] the second five-year (sunset) review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). No respondent interested party submitted a timely substantive response. Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the *Order.* As a result of this sunset review, the Department determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins of dumping likely to prevail should the order be revoked, pursuant to sections 751(c)(1) and 752(b) and (c) of the Act.[4]

On June 30, 2017, the ITC published its determination, pursuant to section 751(c) and 752 of the Act, that revocation of the *Order* would likely lead to continuation or recurrence of material injury to an industry in the United Sates within a reasonably foreseeable time.[5]

Scope of the Order

The products covered by the order are raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells, and edible meats from Iran.[6] This merchandise is provided for in subheading 0802.51.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs urposes, the written description of the scope of this order is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), the Department hereby orders the continuation of the *Order.* U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation notice.

This five-year (sunset) review and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: July 7, 2017.

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. 2017–14707 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping Duty Order; Certain In-Shell Pistachios from Iran,* 51 FR 25922 (July 17, 1986) (*Order*).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 81 FR 18829 (April 1, 2016) (*Sunset Initiation*).

[3] *See Certain Raw In-Shell Pistachios from Iran; Institution of a Five-Year Review,* 81 FR 18882 (April 1, 2016).

[4] *See Certain In-Shell (Raw) Pistachios from the Islamic Republic of Iran: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 81 FR 51857 (August 5, 2016), and accompanying Issues and Decision Memorandum.

[5] *See Investigation No. 731–TA–287 (Second Review) Raw In-Shell Pistachios from Iran,* 82 FR 29931 (June 30, 2017), and USITC Publication 4701 (June 2016), entitled *Raw In-Shell Pistachios from Iran.*

[6] *See Certain In-Shell Pistachios from Iran; Clarification of Scope in Antidumping Duty Investigation,* 51 FR 23254 (June 26, 1986).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Advisory Committee on Windstorm Impact Reduction Meetings

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: The National Advisory Committee on Windstorm Impact Reduction (NACWIR or Committee), will hold three upcoming meetings continuing the work of the Committee. Interested members of the public will be able to view the video conferences and participate from remote locations by calling in to a central phone number. The final agendas and any meeting materials will be posted on the NWIRP Web site at *https://www.nist.gov/el/materials-and-structural-systems-division-73100/national-windstorm-impact-reduction-program-1.*

DATES: The NACWIR will hold meetings (1) via video conference on Monday, July 31, 2017, from 1:00 p.m. until 4:00 p.m. Eastern Time; (2) in person and via video conference on Wednesday, August 23, and Thursday, August 24, 2017, from 9:00 a.m. to 5:00 p.m. Eastern Time; and (3) via video conference on Monday, September 18, 2017, from 9:00 a.m. to 12:00 p.m. Eastern Time. All meetings will be open to the public.

ADDRESSES: The August meeting will be held in Building 215, Rm. C103 at the National Institute of Standards and Technology. The address is 100 Bureau Dr., Gaithersburg, MD 20899–1070. Questions regarding the meetings should be sent to the National Windstorm Impact Reduction Program Director, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Mail Stop 8611, Gaithersburg, Maryland 20899. For instructions on how to participate in each meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Steve Potts, Management and Program Analyst, NWIRP, Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, Maryland 20899. He can also be contacted by email at *Stephen.potts@nist.gov;* or by phone at (301) 975–5412.

SUPPLEMENTARY INFORMATION: The NACWIR was established in accordance with the requirements of the National Windstorm Impact Reduction Act Reauthorization of 2015, Public Law 114–52. The NACWIR is charged with

offering assessments and recommendations on—

- Trends and developments in the natural, engineering, and social sciences and practices of windstorm impact mitigation;
- The priorities of the Strategic Plan for the National Windstorm Impact Reduction Program (NWIRP or Program);
- The coordination of the Program;
- The effectiveness of the Program in meeting its purposes; and
- Any revisions to the Program which may be necessary.

Background information on NWIRP and the Committee is available at *https://www.nist.gov/news-events/news/2016/07/nist-leads-federal-effort-save-lives-and-property-windstorms.*

July Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NACWIR will hold an open meeting via video conference on Monday, July 31, 2017, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of the meeting will be to assess and develop recommendations on (1) the priorities of the Draft Strategic Plan for the NWIRP, and (2) trends and developments in the natural, engineering, and social sciences and practices of windstorm impact mitigation. The agenda and meeting materials will be posted on the NACWIR Web site at *https://www.nist.gov/el/mssd/nwirp/national-advisory-committee-windstorm-impact-reduction.*

All participants in the meeting are required to pre-register. Anyone wishing to participate must register by 5:00 p.m. Eastern Time, Monday, July 24, 2017. Please submit your first and last name, email address, and phone number to Steve Potts at *Stephen.potts@nist.gov* or (301) 975–5412. After pre-registering, participants will be provided with detailed instructions on how to join the video conference remotely. Approximately 15 minutes will be reserved from 3:35 p.m.–3:50 p.m. Eastern Time for public comments. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Mr. Steve Potts, *stephen.potts@nist.gov* by 5:00 p.m. Eastern time, Monday, July 24, 2017. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated, and those who were unable to participate are invited to submit written statements to NACWIR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899, or electronically by email to *stephen.potts@nist.gov.*

August Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NACWIR will meet in person and via video conference on Wednesday, August 23, and Thursday, August 24, 2017, from 9:00 a.m. to 5:00 p.m. Eastern Time. The meeting will be open to the public. The primary purpose of the meeting will be to assess and develop recommendations on: (1) The coordination of the Program; (2) the effectiveness of the Program in meeting its purposes; and (3) any revisions to the Program which may be necessary. The agenda may change to accommodate Committee business. The agenda and meeting materials will be posted on the NACWIR Web site at *https://www.nist.gov/el/mssd/nwirp/national-advisory-committee-windstorm-impact-reduction.*

All participants in the meeting are required to pre-register. Anyone wishing to participate must register by 5:00 p.m. Eastern Time, Wednesday, August 16, 2017. To participate in the video conference, please submit your first and last name, email address, and phone number to Steve Potts at *Stephen.potts@nist.gov* or (301) 975–5412. After pre-registering, participants will be provided with detailed instructions on how to join the video conference remotely.

The meeting will be held in Building 215, Rm. C103 at the National Institute of Standards and Technology. The address is 100 Bureau Dr., Gaithersburg, MD 20899–1070. All visitors to the NIST site are required to pre-register to be admitted. To attend the meeting in person, please submit your full name, email address, and phone number to Steve Potts. Non-U.S. citizens must submit additional information; please contact Mr. Steve Potts. Mr. Potts' email address is *stephen.potts@nist.gov* and his phone number is (301) 975–5412. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please visit: *http://www.nist.gov/public_affairs/visitor/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On August 23, 2017, approximately fifteen minutes will be reserved near the end of the day for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Mr. Steve Potts, *stephen.potts@nist.gov* by 5:00 p.m. Eastern time, Wednesday, August 16, 2017.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated, and those who were unable to participate are invited to submit written statements to NACWIR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899, or electronically by email to *stephen.potts@nist.gov.*

September Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NACWIR will hold an open meeting via video conference on Monday, September 18, 2017, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of the meeting will be to assess and develop recommendations on: (1) The coordination of the National Windstorm Impact Reduction Program (Program); (2) the effectiveness of the Program in meeting its purposes; and (3) any revisions to the Program which may be necessary. The agenda and meeting materials will be posted on the NACWIR Web site at *https://www.nist.gov/el/mssd/nwirp/national-advisory-committee-windstorm-impact-reduction.*

All participants in the meeting are required to pre-register. Anyone wishing to participate must register by 5:00 p.m. Eastern Time, Monday, September 11, 2017. Please submit your first and last name, email address, and phone number to Steve Potts at *Stephen.potts@nist.gov* or (301) 975–5412. After pre-registering, participants will be provided with detailed instructions on how to join the video conference remotely.

Approximately 15 minutes will be reserved from 3:35 p.m.–3:50 p.m. Eastern Time for public comments. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received but is likely to be about three minutes each. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Mr. Steve Potts, *stephen.potts@nist.gov* by 5:00 p.m. Eastern time, Monday, September 11, 2017. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated, and those who were unable to participate are invited to submit written statements to NACWIR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8611, Gaithersburg, Maryland 20899, or electronically by email to *stephen.potts@nist.gov.*

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017–14719 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF378

Marine Mammals; File No. 21059

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826 (Responsible Party: Philip N. Hooge), has applied in due form for a permit to conduct research on humpback (*Megaptera novaeangliae*), killer (*Orcinus orca*), minke (*Balaenoptera acutorostrata*) and gray whales (*Eschrichtius robustus*).

DATES: Written, telefaxed, or email comments must be received on or before August 14, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21059 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Courtney Smith or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The proposed permit would authorize takes of the above listed species during vessel surveys to gather information currently lacking regarding their ecology, behavior and population status to enable information-based resource management in southeastern Alaska especially Glacier Bay National Park & Preserve (GBNPP). The core study area is Glacier Bay/Icy Strait, but includes all nearshore waters of the mainland and Alexander Archipelago. Takes by harassment may occur by close approach for vessel surveys, photo-identification, behavioral observation, collection of feces/sloughed skin, biopsy sampling and passive acoustic recording. The maximum number of annual approaches to whales (risking Level B harassment) will be 2500 humpback whales, 500 killer whales, 20 minke whales and 20 gray whales. Biopsy takes on 50 humpback and 50 killer whales are also requested. The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–14640 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF508–X

Marine Mammals; File No. 20556

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Georgia Department of Natural Resources [Jonathan Ambrose, Responsible party] 2070 U.S. Highway 278 Southeast, Social Circle, GA 30025, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before August 14, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20556 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request

to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a 5-year permit to take marine mammals for research in the Atlantic Ocean and off the west coast of Florida during vessel and manned and unmanned aerial surveys. The objectives of the research are to continue North Atlantic right whale (NARW; *Eubalaena glacialis*) population monitoring efforts, identifying and reducing human causes of mortality and serious injury, monitoring and protecting NARW habitat, and helping to implement the NARW Recovery Plan. Up to 500 endangered NARWs, and 50 non-listed humpback whales (*Megaptera novaeangliae*) may be targeted annually for research activities including counts, behavioral observations, photography, photo-identification, photogrammetry, video recording, and passive acoustic recording. Biological samples, including sloughed skin, fecal, breath, and skin and blubber biopsies, may be collected from 95 NARW adults or juveniles and 60 NARW calves annually, and these samples may be exported and re-imported for analysis. Up to 15 NARWs may be tagged each year with either traditional dart/barb tags or suction-cup tags. Additional marine mammals that may be harassed incidental to research include up to 50 each of endangered sei whales (*Balaenoptera borealis*) and non-listed long-finned pilot whales (*Globicephala melas*), and 500 each of Atlantic white-sided (*Lagenorhynchus acutus*), Atlantic spotted (*Stenella frontalis*), and bottlenose (*Tursiops truncatus*) dolphins, annually.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 7, 2017.

Catherine Marzin,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–14635 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF514

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Cost Recovery Program

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

ACTION: Notification of fee percentage.

SUMMARY: NMFS publishes notification of a 1.57 percent fee for cost recovery under the Bering Sea and Aleutian Islands Crab Rationalization Program. This action is intended to provide holders of crab allocations with the fee percentage for the 2017/2018 crab fishing year so they can calculate the required payment for cost recovery fees that must be submitted by July 31, 2018.

DATES: The Crab Rationalization Program Registered Crab Receiver permit holder is responsible for submitting the fee liability payment to NMFS on or before July 31, 2018.

FOR FURTHER INFORMATION CONTACT: Suja Hall, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS Alaska Region administers the Bering Sea and Aleutian Islands Crab Rationalization Program (Program) in the North Pacific. Fishing under the Program began on August 15, 2005. Regulations implementing the Program can be found at 50 CFR part 680.

The Program is a limited access system authorized by section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Program includes a cost recovery provision to collect fees to recover the actual costs directly related to the management, data collection, and enforcement of the Program. The Program implemented under the authority of section 313(j) is consistent with the cost recovery provisions included under section 304(d)(2)(A) of the Magnuson-Stevens Act. NMFS developed the cost recovery provision to conform to statutory requirements and to reimburse the agency for the actual costs directly related to the management, data collection, and enforcement of the Program. The Program. The cost recovery provision allows collection of 133 percent of the actual management, data collection, and enforcement costs up to 3 percent of the ex-vessel value of crab harvested under the Program. The Program provides that a proportional share of fees charged for management and enforcement be forwarded to the State of Alaska for its share of management and data collection costs for the Program. The cost recovery provision also requires the harvesting and processing sectors to each pay half the cost recovery fees. Catcher/processor quota shareholders are required to pay the full fee percentage for crab processed at sea.

A crab allocation holder generally incurs a cost recovery fee liability for every pound of crab landed. The crab allocations include Individual Fishing Quota, Crew Individual Fishing Quota, Individual Processing Quota, Community Development Quota, and the Adak community allocation. The Registered Crab Receiver (RCR) permit holder must collect the fee liability from the crab allocation holder who is landing crab. Additionally, the RCR permit holder must collect his or her own fee liability for all crab delivered to the RCR. The RCR permit holder is responsible for submitting this payment to NMFS on or before July 31, in the year following the crab fishing year in which landings of crab were made.

The dollar amount of the fee due is determined by multiplying the fee percentage (not to exceed 3 percent) by the ex-vessel value of crab debited from the allocation. Specific details on the Program's cost recovery provision may be found in the implementing regulations at 50 CFR 680.44.

Fee Percentage

Each year, NMFS calculates and publishes in the **Federal Register** the fee percentage according to the factors and methodology described at § 680.44(c)(2). The formula for determining the fee percentage is the ''direct program costs'' divided by ''value of the fishery,'' where ''direct program costs'' are the direct program costs for the Program for the previous fiscal year, and ''value of the fishery'' is the ex-vessel value of the

catch subject to the crab cost recovery fee liability for the current year. Fee collections for any given year may be less than, or greater than, the actual costs and fishery value for that year, because, by regulation, the fee percentage is established in the first quarter of a crab fishery year based on the fishery value and the costs of the prior year.

Based upon the fee percentage formula described above, the estimated percentage of costs to value for the 2016/2017 fishery was 1.57 percent. Therefore, the fee percentage will be 1.57 percent for the 2017/2018 crab fishing year. This is a decrease of 0.03 percent from the 2016/2017 fee percentage of 1.60 percent (81 FR 45458; July 14, 2016). The change in the fee percentage from 2016/2017 to 2017/2018 is due to decreases in direct program costs incurred by the Alaska Department of Fish and Game and the NOAA Office of Law Enforcement. These reduced costs were due to minor decreases in personnel, training, and supplies related to managing the Program in the 2016/2017 crab fishing year. Additionally, the value of crab harvested under the Program decreased by $39.7 million. The decrease in the value of the fishery offset the decreases in direct program costs and limited the change in the fee percentage from 2016/2017 to 2017/2018.

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

Dated: July 10, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–14720 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF119

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys off the Coast of New York

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Deepwater Wind, LLC, (DWW) to incidentally harass, by Level B harassment only, marine mammals during high-resolution geophysical (HRG) and geotechnical survey investigations associated with marine site characterization activities off the coast of New York in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0486) (Lease Area) and along potential submarine cable routes to a landfall location in Easthampton, New York (''Submarine Cable Corridor'') (collectively the Lease Area and Submarine Cable Corridor are the Project Area).

DATES: This Authorization is effective from June 16, 2017 through June 15, 2018.

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, we adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. Accordingly, NMFS prepared an Environmental Assessment (EA) to consider the environmental impacts associated with the issuance of the IHA.

NMFS' EA will be made available at *www.nmfs.noaa.gov/pr/permits/incidental/other_energy.htm* at the time of the publication of this **Federal Register** notice.

Summary of Request

On December 1, 2016, NMFS received application request from DWW for an IHA to take marine mammals incidental to 2017 geophysical survey investigations in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) lease area #OCS–A–0486 Lease Area and along potential submarine cable routes to a landfall location in Easthampton, New York (Project Area) designated and offered by the U.S. Bureau of Ocean Energy Management (BOEM), to support the development of an offshore wind project. DWW's request was for take of 18 species of marine mammals by Level B harassment of a small number of 18 species and take by Level A harassment of 3 species. Neither DWW nor NMFS expects mortality to result from this activity; and therefore, an IHA is appropriate. NMFS determined that the

application was adequate and complete on April 27, 2017.

Description of the Specified Activity

Overview

DWW plans to conduct a geophysical and geotechnical survey in the Project Area to support the characterization of the existing seabed and subsurface geological conditions in the Project Area. Surveys will include the use of the following equipment: Shallow and medium-penetration sub-bottom profiler (chirper, boomer, and sparker) used during the HRG survey, multi-beam depth sounder, side-scan sonar, vibracores, and cone penetration tests (CPTs). The planned geophysical survey activities would occur for 168 days beginning in June 2017, and geotechnical survey activities would take place in June 2017 and last for approximately 75 days. Take, by Level B Harassment only of individuals of 18 species of marine mammals is anticipated to result from the specified activities. No serious injury or mortality is expected from DWW's HRG and geotechnical surveys. A detailed description of the planned marine site characterization project is provided in the **Federal Register** notice for the proposed IHA (82 FR 22250; May 12, 2017). Since that time, no changes have been made to the planned marine site characterization survey activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to DWW was published in the **Federal Register** on May 12, 2017 (80 FR 22250). That notice described, in detail, DWW's activity, the marine mammal species that may be affected by the activity and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and one private citizen. Only the Commission had substantive comments.

Comment 1: The Commission noted a discrepancy between the source levels used in this project and the a recently issued IHA for another marine site characterization project (82 FR 20577) to Ocean Wind, LLC (Ocean Wind) and recommended that NMFS (1) explain why the sparker source levels for the two projects were considerably different, (2) encourage applicants to disclose the methods used in measuring and calculating source levels of the various sound sources, and (3) ensure accuracy and consistency in source levels used by applicants for different projects with similar types of HRG equipment.

Response: NMFS was provided with proprietary information from Ocean Wind and was unable to use that data in the analysis for DWW. The source levels that were used for this project were described in the notice of our proposed IHA (82 FR 22250; May 12, 2017) but included source levels from the manufacturer and from measurements taken in situ (Crocker and Fratantonio 2016). In the future, we will encourage applicants to disclose their data to the public and will continue to use all publicly available data to ensure consistency and accuracy for similar projects.

Comment 2: The Commission does not believe that take by Level A harassment would likely occur from project activities because of the very small Level A zones (*e.g.* 5.12 m for harbor porpoise and 0.65 m for harbor seals and gray seals) and the increased likelihood that take by Level A harassment could be avoided with the implementation of the minimum 200 meter (m) shutdown zone. The Commission recommends that NMFS use a consistent approach for authorizing Level A harassment takes, especially in situations when mitigation measure implementation very likely would preclude taking in the respective Level A harassment zones.

Response: NMFS agrees with the Commission and believes that all modeled take by Level A harassment could be avoided with the implementation of the shutdown zones. We have removed the authorization for Level A take for harbor porpoise, harbor seals, and gray seals.

Comment 3: The Commission recommends that, until the behavior thresholds are updated, NMFS require applicants to use the 120- rather than 160-decibel (dB) re 1 micropascal (μPa) threshold for acoustic, non-impulsive sources (*e.g.,* chirp-type sub-bottom profilers, echosounders, and other sonars including side-scan and fish-finding).

Response: NMFS considers sub-bottom profilers to be impulsive sources; therefore, 160 dB threshold will continue to be used. Additionally, BOEM listed sparkers as impulsive sources (BOEM 2016). The 120-dB threshold is typically associated with continuous sources. Continuous sounds are those whose sound pressure level remains above that of the ambient sound, with negligibly small fluctuations in level (NIOSH, 1998; ANSI, 2005). Intermittent sounds are defined as sounds with interrupted levels of low or no sound (NIOSH, 1998). Sub-bottom profiler signals are intermittent sounds. Intermittent sounds can further be defined as either impulsive or non-impulsive. Impulsive sounds have been defined as sounds which are typically transient, brief (<1 sec), broadband, and consist of a high peak pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998). Non-impulsive sounds typically have more gradual rise times and longer decays (ANSI, 1995; NIOSH, 1998). Sub-bottom profiler signals have durations that are typically very brief (<1 sec), with temporal characteristics that more closely resemble those of impulsive sounds than non-impulsive sounds. With regard to behavioral thresholds, we consider the temporal and spectral characteristics of sub-bottom profiler signals to more closely resemble those of an impulse sound rather than a continuous sound. The 160-dB threshold is typically associated with impulsive sources. Therefore, the 160-dB threshold (typically associated with impulsive sources) is more appropriate than the 120-dB threshold (typically associated with continuous sources) for estimating takes by behavioral harassment incidental to use of such sources.

Comment 4: The Commission recommends that NMFS require DWW to monitor the full extent of the Level B harassment zones for the purpose of enumerating Level B harassment takes and documenting any behavioral responses observed.

Response: The Level B zones extend to 3,556 m for vibracore, 893 m for sparkers, and 500 m for dynamic positioning (DP) thrusters. It is not practicable for the applicant to monitor these zones. Therefore, NMFS is clarifying that the monitoring measures include Protected Species Observers (PSO)s will monitor all visible waters to the extent practicable so as to not undermine effectiveness of shutdown zone. The data collection and reporting requirements will include providing an estimate of the observable distance recorded at each shift change; and, if the entire Level B zone was not able to be monitored, DWW apply a correction to the observed marine mammals in the 160 dB zone to estimate the number of animals that were likely not detected based on the area that was not monitored.

Description of Marine Mammals in the Area of the Specified Activity

There are 36 species of marine mammals that potentially occur in the Northwest Atlantic OCS region (BOEM,

2014) (Table 1). The majority of these species are pelagic and/or northern species, or are so rarely sighted that their presence in the Project Area is unlikely. Eighteen of these species are included in the take estimate for this project based on seasonal density in the Project area. The other 18 species are not included in the take request because they have low densities in the Project area, are rarely sighted there, and are considered very unlikely to occur in the area.

Further information on the biology, ecology, abundance, and distribution of those species likely to occur in the Project Area can be found in section 4 of DWW's application, and the NMFS Marine Mammal Stock Assessment Reports (see Waring *et al.,* 2016), which are available online at: *http://www.nmfs.noaa.gov/pr/species/*. A detailed description of the of the species likely to be affected by the marine site characterization project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (82 FR 22250; May 12, 2017). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

TABLE 1—MARINE MAMMALS KNOWN TO OCCUR IN THE WATERS OFF THE NORTHWEST ATLANTIC OCS

Common Name	Stock	NMFS MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV,Nmin, most recent abundance survey) [2]	PBR [3]	Occurrence and seasonality in the NW Atlantic OCS
Toothed whale (Odontoceti)					
Atlantic white-sided dolphin (*Lagenorhynchus acutus*).	W. North Atlantic	-; N	48,819 (0.61; 30,403; n/a)	304	rare.
Atlantic spotted dolphin (*Stenella frontalis*).	W. North Atlantic	-; N	44,715 (0.43; 31,610; n/a)	316	rare.
Bottlenose dolphin (*Tursiops truncatus*).	W. North Atlantic, Offshore	-; N	77,532 (0.40; 56,053; 2011).	561	Common year round.
Clymene Dolphin (*Stenella clymene*).	W. North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.
Pantropical Spotted Dolphin (*Stenella attenuata*).	W. North Atlantic	-; N	3,333 (0.91; 1,733; n/a)	17	rare.
Risso's dolphin (*Grampus griseus*).	W. North Atlantic	-; N	18,250 (0.46; 12,619; n/a)	126	rare.
Short-beaked common dolphin (*Delphinus delphis*).	W. North Atlantic	-; N	70,184 (0.28; 55,690; 2011).	557	Common year round.
Striped dolphin (*Stenella coeruleoalba*).	W. North Atlantic	-; N	54,807 (0.3; 42,804; n/a)	428	rare.
Spinner Dolphin (*Stenella longirostris*).	W. North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.
White-beaked dolphin (*Lagenorhynchus albirostris*).	W. North Atlantic	-; N	2,003 (0.94; 1,023; n/a)	10	rare.
Harbor porpoise (*Phocoena phocoena*).	Gulf of Maine/Bay of Fundy	-; N	79,833 (0.32; 61,415; 2011).	706	Common year round.
Killer whale (*Orcinus orca*)	W. North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.
False killer whale (*Pseudorca crassidens*).	W. North Atlantic	-; Y	442 (1.06; 212; n/a)	2.1	rare.
Long-finned pilot whale (*Globicephala melas*).	W. North Atlantic	-; Y	5,636 (0.63; 3,464; n/a)	35	rare.
Short-finned pilot whale (*Globicephala macrorhynchus*).	W. North Atlantic	-; Y	21,515 (0.37; 15,913; n/a)	159	rare.
Sperm whale (*Physeter macrocephalus*).	North Atlantic	E; Y	2,288 (0.28; 1,815; n/a)	3.6	Year round in continental shelf and slope waters, occur seasonally to forage.
Pygmy sperm whale (*Kogia breviceps*).	W. North Atlantic	-; N	3,785 [b/](0.47; 2,598; n/a)	26	rare.
Dwarf sperm whale (*Kogia sima*).	W. North Atlantic	-; N	3,785 [b/](0.47; 2,598; n/a)	26	rare.
Cuvier's beaked whale (*Ziphius cavirostris*).	W. North Atlantic	-; N	6,532 (0.32; 5,021; n/a)	50	rare.
Blainville's beaked whale (*Mesoplodon densirostris*).	W. North Atlantic	-; N	7,092 [c/](0.54; 4,632; n/a)	46	rare.
Gervais' beaked whale (*Mesoplodon europaeus*).	W. North Atlantic	-; N	7,092 [c/](0.54; 4,632; n/a)	46	rare.
True's beaked whale (*Mesoplodon mirus*).	W. North Atlantic	-; N	7,092 [c/](0.54; 4,632; n/a)	46	rare.
Sowerby's Beaked Whale (*Mesoplodon bidens*).	W. North Atlantic	-; N	7,092 [c/](0.54; 4,632; n/a)	46	rare.

TABLE 1—MARINE MAMMALS KNOWN TO OCCUR IN THE WATERS OFF THE NORTHWEST ATLANTIC OCS—Continued

Common Name	Stock	NMFS MMPA and ESA status; strategic (Y/N) [1]	Stock abundance (CV,Nmin, most recent abundance survey) [2]	PBR [3]	Occurrence and seasonality in the NW Atlantic OCS
Melon-headed whale (*Peponocephala electra*).	W. North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.
Baleen whales (Mysticeti)					
Minke whale (*Balaenoptera acutorostrata*).	Canadian East Coast	-; N	2,591 (0.81; 1,425; n/a)	162	Year round in continental shelf and slope waters, occur seasonally to forage.
Blue whale (*Balaenoptera musculus*).	W. North Atlantic	E; Y	Unknown (unk; 440; n/a)	0.9	Year round in continental shelf and slope waters, occur seasonally to forage.
Fin whale (*Balaenoptera physalus*).	W. North Atlantic	E; Y	1,618 (0.33; 1,234; n/a)	2.5	Year round in continental shelf and slope waters, occur seasonally to forage.
Humpback whale (*Megaptera novaeangliae*).	Gulf of Maine	-; N	823 (0; 823; n/a)	2.7	Common year round.
North Atlantic right whale (*Eubalaena glacialis*).	W. North Atlantic	E; Y	440 (0; 440; n/a)	1	Year round in continental shelf and slope waters, occur seasonally to forage.
Sei whale (*Balaenoptera borealis*).	Nova Scotia	E; Y	357 (0.52; 236; n/a)	0.5	Year round in continental shelf and slope waters, occur seasonally to forage.
Earless seals (Phocidae)					
Gray seals (*Halichoerus grypus*).	North Atlantic	-; N	505,000 (unk; unk; n/a)	Undet	Unlikely.
Harbor seals (*Phoca vitulina*)	W. North Atlantic	-; N	75,834 (0.15; 66,884; 2012).	2,006	Common year round.
Hooded seals (*Cystophora cristata*).	W. North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.
Harp seal (*Phoca groenlandica*).	North Atlantic	-; N	Unknown (unk; unk; n/a)	Undet	rare.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate. All values presented here are from the 2016 draft Atlantic SARs.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

The effects of underwater noise from HRG and geotechnical activities for the marine site characterization project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (82 FR 22250; May 12, 2017) included a discussion of the effects of anthropogenic noise on marine mammals. That information is not repeated here. Please refer to that **Federal Register** notice for that information.

Estimated Take by Incidental Harassment

This section provides the number of incidental takes authorized through this IHA, which informed both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment, in the form of disruption of behavioral patterns resulting from exposure to HRG and geotechnical surveys. The proposed mitigation and monitoring measures (when considered in combination with the operational parameters and characteristics of the

sound sources) are expected to alleviate the potential for Level A take of all species. In addition, as described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

In summary, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) The area or volume of water that will be ensonified above these levels in a day; (3) The density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. Below, we describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 µPa ((root mean square (rms)) for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

DWW's planned activity includes the use of continuous (vibracore and DP thruster) and impulsive (*e.g.* sparkers) sources; and therefore, the 120 and 160 dB re 1 µPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). DWW's marine site characterization activities include the use of impulsive (sparkers) and non-impulsive (vibracore and DP thruster) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 2 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—SUMMARY OF PTS ONSET ACOUSTIC THRESHOLDS [1]

Hearing Group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-frequency cetaceans	*Cell 1*—Lpk,flat: 219 dB, LE,LF,24h: 183 dB	*Cell 2*—LE,LF,24h: 199 dB.
Mid-frequency cetaceans	*Cell 3*—Lpk,flat: 230 dB, LE,MF,24h: 185 dB	*Cell 4*—LE,MF,24h: 198 dB.
High-frequency cetaceans	*Cell 5*—Lpk,flat: 202 dB, LE,HF,24h: 155 dB.	*Cell 6*—LE,HF,24h: 173 dB.
Phocid Pinnipeds (underwaters)	*Cell 7*—Lpk,flat: 218 dB, LE,PW,24h: 185 dB	*Cell 8*—LE,PW,24h: 201 dB.
Otariid Pinnipeds (underwater)	*Cell 9*—Lpk,flat: 232 dB, LE,OW,24h: 203 dB	*Cell 10*—LE,OW,24h: 219 dB.

[1] NMFS 2016.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

DWW took into consideration sound sources using the potential operational parameters, bathymetry, geoacoustic properties of the Project Area, time of year, and marine mammal hearing ranges. Results of a sound source verification study in a nearby location showed that estimated maximum distance to the 160 dB re 1 µPa (rms) MMPA threshold for all water depths for the HRG survey sub-bottom profilers (the HRG survey equipment with the greatest potential for effect on marine mammal) was approximately 447 m from the source, which equated to a propagation loss coefficient of 20logR (equivalent to spherical spreading). The estimated maximum critical distance to the 120 dB re 1 µPa (rms) MMPA threshold for all water depths for the vibracore was approximately 1,778 from the source using spherical spreading. For sparkers and vibracore, we doubled these distances to conservatively account for the uncertainty in predicting propagation loss in a similar but different location. The estimated maximum critical distance to the 120 dB re 1 µPa (rms) MMPA threshold for all water depths for the drill ship DP thruster was approximately 500 m from the source based on hydroacoustic modeling results (Subacoustech 2016). DWW and NMFS believe that these estimates represent a conservative scenario and that the actual distances to the Level B harassment threshold may be shorter, as the calculated distance was doubled for the sparker system and vibracore, the SL for the sparker system was conservatively based on a source that was louder than the equipment planned for use in this project, and there are some sound measurements taken in the Northeast that suggest a

higher spreading coefficient (which would result in a shorter distance) may be applicable.

The Zone of influence (ZOI) is the extent of the ensonified zone in a given day. The ZOI was calculated using the following equations:

- Stationary source (*e.g.* DP thruster and vibracore): πr^2
- Mobile source (*e.g.* sparkers): (distance/day * 2r) + πr^2

Where distance is the maximum survey trackline per day (110 kilometer (km)) and r is the distance to the 160 dB (for impulsive sources) and 120 dB (for non-impulsive sources) isopleths. The isopleths for sparkers and vibracores were calculated using 20logR, and the resulting isopleths were doubled as a conservative mechanism to allow for any uncertainty in propagation loss. The isopleths for the DP thruster was calculated using a transmission loss coefficient of 11.12, which was based on field verification study results (Subacoustech 2016).

TABLE 3—USER SPREADSHEET INPUT

	Vibracore	DP thruster	Sparker
Spreadsheet Tab Used	(A) Non-impulsive-Stat-Cont	(A) Non-impulsive-Stat-Cont	(F) Impulsive-Mobile.
Source Level	185 dB RMS	150 dB RMS	186 dB SEL.
Weighting Factor Adjustment	1.7, 6.2, 20	1.75, 5	2.75, 1.2.
Activity Duration (hours) within 24-h period	1	1, 3	n/a.
Propogation (xLogR)	20	11.12	n/a.
Distance of source level measurement (meters)	1	1	n/a.
Source velocity (meters/second)	n/a	n/a	1.93.
1/Repetition rate (seconds)	n/a	n/a	2.48.

DWW used the user spreadsheet to calculate the isopleth for the loudest sources (sparker, vibracore, DP thruster). The sparker was calculated with the following conditions: source level of 186 dB SEL, source velocity of 1.93 meters per second (m/s), repetition rate of 2.48, and a weighting factor adjustment of 1.2 and 2.75 based on the appropriate broadband source. Isopleths were less than 1 m for all hearing groups (Table 4) except high-frequency cetaceans, which was 5.12 m. Take by Level A harassment can be avoided with the implementation of the shutdowns during all planned activities. Shutdown zones exceed the Level A zones for sparkers. The vibracore used the following parameters: source level of 185 rms, distance of source level measurement at 1 m, duration of 1 hour, propagation loss of 20, and weighting factor adjustment of 1.7, 6.2, and 20 based on the spectrograms for this equipment. Isopleths are summarized in Table 4 and no Level A takes are requested during the use of the vibracore. The DP thruster was defined as non-impulsive static continuous source with a source level of 150 dB rms, Propagation loss of 11.12 based on the spectrograms for this equipment (Subacoustech 2016), an activity duration of 1 and 3 hours and weighting factor adjustment of 1.7 and 5. Isopleths were less than 3 m for all hearing groups (Table 4); therefore, no Level A takes were requested for this source.

TABLE 4—MAXIMUM WORST-CASE DISTANCE (m) AND AREA (km^2) TO THE LEVEL A AND LEVEL B THRESHOLDS

Hearing group	SELcum threshold (dB)	Equipment	Vibracore Operations: HPC or Rossfelder Corer			DP Thruster		800 Joule Geo Resources Sparker	Sparker System
		Source PLS	185 dB_{RMS}			150 dB_{RMS}		186 dB_{SEL}	186 $dB_{SEL,}$
Level A									
	Threshold	WFA* (kHz)	1.7	6.2	20	1.7	5	2.75	1.2
Low-Frequency Cetaceans.	199	PTS Isopleth to threshold (meters).	11.97 m, 0 km^2.	.....	.....	0.06 m, 0 km^2	.....	1.29 m, 0.283 km^2.	1.30 m, 0.287 km^2.
Mid-Frequency Cetaceans.	198	.....	.....	.....	12.96 m, 0.001 km^2.	.....	0.03 m, 0 km^2	0.02 m, 0.005 km^2.	
High-Frequency Cetaceans.	173	.....	.....	.....	207.58 m, 0.135 km^2.	.....	2.17 m, 0 km^2	5.12 m, 1.127 km^2.	
Phocid Pinnipeds.	201	.....	.....	9.51 m, 0 km^2	.....	.....	0.11 m, 0 km^2	0.65 m, 0.144 km^2.	
Level B									
	Threshold	Source PLS	185 dB_{RMS}			150 dB_{RMS}		213 dB_{RMS}	213 $dB_{RMS,}$
All Marine Mammals.	120	Level B Harassment Distance.	3,556 m, 39.74 km^2			499 m, 0.78 km^2			
	160							893 m, 199.0481 km^2.	893 m, 199.0481 km^2.

* Weighting Factor Adjustment.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

DWW estimated species densities within the planned project area in order to estimate the number of marine mammal exposures to sound levels above the 120 dB Level B harassment threshold for continuous noise (*i.e.,* DP thrusters and vibracore) and the 160 dB Level B harassment threshold for intermittent, impulsive noise (*i.e.,* sparkers). Research indicates that marine mammals generally have extremely fine auditory temporal resolution and can detect each signal separately (*e.g.,* Au *et al.,* 1988; Dolphin *et al.,* 1995; Supin and Popov 1995; Mooney *et al.,* 2009b), especially for species with echolocation capabilities. Therefore, it is likely that marine mammals would perceive the acoustic signals associated with the HRG survey equipment as being intermittent rather than continuous, and we base our takes from these sources on exposures to the 160 dB threshold.

The data used as the basis for estimating cetacean density (''D'') for the Lease Area are sightings per unit effort (SPUE) derived by Duke University (Roberts *et al.,* 2016). For pinnipeds, the only available comprehensive data for seal abundance is the Northeast Navy Operations Area (OPAREA) Density Estimates (DoN 2007). SPUE (or, the relative abundance of species) is derived by using a measure of survey effort and number of individual cetaceans sighted. SPUE allows for comparison between discrete units of time (*i.e.* seasons) and space within a project area (Shoop and Kenney 1992). The Duke University (Roberts *et al.,* 2016) cetacean density data represent models derived from aggregating line-transect surveys conducted over 23 years by 5 institutions (NMFS Northeast Fisheries Science Center (NEFSC), New Jersey Department of Environmental Protection (NJDEP), NMFS Southeast Fisheries Science Center (SEFSC), University of North Carolina Wilmington (UNCW), Virginia Aquarium & Marine Science Center (VAMSC)), the results of which are freely available online at the Ocean Biogeographic Information System Spatial Ecological Analysis of Megavertebrate Populations (OBIS–SEAMAP) repository. The datasets for each species were downloaded from OBIS–SEAMAP and were modeled as estimated mean year-round abundance (number of individual animals) per grid cell (100 km by 100 km) for most species. For certain species, the model predicted monthly mean abundance rather than mean year-round abundance, for which the annual mean abundance was calculated using Spatial Analyst tools in ArcGIS. Based on the annual mean abundance datasets, the mean density (animals/km^2) was calculated in ArcGIS by averaging the abundance of animals within the Project Area and dividing by 100 to get animals/km^2. The OPAREA Density Estimates (DoN 2007) used for pinniped densities were based on data collected through NMFS NWFSC aerial surveys conducted between 1998 and 2005.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Estimated takes were calculated by multiplying the species density (animals per km^2) by the appropriate ZOI, multiplied by the number of appropriate days (*e.g.* 168 for HRG activities or 53 days for vibracoring or 22 days for DP thruster during CPT) of the specified activity. A detailed description of the acoustic modeling used to calculate zones of influence is provided in DWW's IHA application (also see the discussion in the *Mitigation Measures* section below).

DWW used a distance to the 160 dB Level B threshold of 447 m, which was doubled to be conservative for any uncertainty in propagation loss, for a maximum distance of 894 m for the sparker system. The ZOI of 199.048 km^2 for the sparker system and the survey period of a conservative 168 days, which includes estimated weather downtime, was used to estimate take from use of the HRG survey equipment during geophysical survey activities. The ZOI is based on the worst case (since it assumes the higher powered Dura-Spark 240 System sparker will be operating all the time) and a maximum survey trackline of 110 km (68 mi) per day. The resulting take estimates (rounded to the nearest whole number) are presented in Table 5.

DWW used a maximum distance to the 120 dB Level B threshold of 499 m for DP thrusters. The ZOI of 0.782 km^2 and the maximum DP thruster use period of 22 days were used to estimate take from use of the DP thruster during geotechnical survey activities.

DWW used a distance to the 120 dB Level B zone of 1,778 m, which was doubled to be conservative, for a maximum distance of 3,556 m for vibracore. The ZOI of 39.738 km^2 and a maximum vibracore use period of 53 days were used to estimate take from use of the vibracore during geotechnical survey activities. The resulting take estimates (rounded to the nearest whole number) based upon these conservative assumptions are presented in Table 5.

DWW's requested take numbers are provided in Table 5 and are also the number of takes NMFS is authorizing. DWW's calculations do not take into account whether a single animal is harassed multiple times or whether each exposure is a different animal. Therefore, the numbers in Tables 5 are the maximum number of animals that may be harassed during the HRG and geotechnical surveys (*i.e.,* DWW assumes that each exposure event is a different animal). These estimates do not account for prescribed mitigation measures that DWW would implement during the specified activities and the fact that shutdown/powerdown procedures shall be implemented if an animal enters within 200 m of the vessel during any activity and within 400 m when the sparkers are operating, further reducing the potential for any takes to occur during these activities. The take numbers in Table 5 were reduced from the proposed IHA due to a change in the number of days of operation of the vibracore and CPT. In the proposed IHA, we conservatively estimated the maximum number of days of geotechnical activities (75) for each type of activity. Here we have reduced the total number of days for each source (53 days for vibracore and 22 days of DP thruster use during CPT) since they will not be running on the same day.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For mobile sources, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line

at a constant speed. Inputs used in the User Spreadsheet, and the resulting isopleths are reported in Tables 3 and 4.

Table 5. Authorized Level B Harassment Takes for HRG and Geophysical Survey Activities.

Equipment	Density	HPC or Rossfelder Corer	DP Thruster	Applied Acoustics 100–1,000 joule Dura-Spark 240 System	Total number of takes
Sound Source (dB)		185	150	213 dB_{rms}	
Number of Activity Days		53[1]	22[1]	168	
Threshold		RMS 120 dB	RMS 120 dB	RMS 160 dB	
Species Common Name		Level B Take (multiplied by number of days)			
Odontoceti (Toothed Whales and Dolphins)					
Sperm whale	0.00007657	0	0	3	3
False killer whale	0	0	0	3	3
Cuvier's beaked whale	0.00018441	0*	0	6	6*
Long-finned pilot whale	0.00149747	3*	0	50	53*
Atlantic white-sided dolphin	0.01444053	30*	0*	483	513*
White-beaked dolphin	0.00008411	0	0	3	3
Short-beaked common dolphin	0.04027238	85*	1*	1,347	1433*
Atlantic spotted dolphin	0.00006577	0	0	2	2
Striped dolphin	0.00003174	0	0	1	1
Common bottlenose dolphin	0.0115608	24*	0*	387	411*
Harbor Porpoise	0.03340904	70*	1*	1,117	1,188*
Mysticeti (Baleen Whales)					
Fin whale	0.00207529	4*	0	69	73*
Sei whale	0.00008766	0	0	3	3
Minke whale	0.00046292	1*	0	15	16
Humpback whale	0.0014806	3*	0	50	53*
North Atlantic right whale	0.00295075	6*	0	99	105*
Phocids (Seals)					
Harbor seal	0.313166136	660*	5*	10,472	11,137*
Gray seal	0.036336364	77*	1*	1,215	1,293*

1Number of days of geotechnical activities is 75, with a maximum of 53 days of vibracoring and 22 days of DP thruster use during CPT.

*These take numbers were reduced from the proposed IHA due to a change in the number of days of operation of the vibracore and CPT. In the proposed IHA, we conservatively estimated the maximum number of days of geotechnical activities (75) for each type of activity. Here we have reduced the total number of days for each source since they will not be running on the same day.

Mitigation Measures

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS

regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

With NMFS' input during the application process, and as per the BOEM Lease, DWW will implement the following mitigation measures during site characterization surveys utilizing HRG survey equipment and use of the DP thruster and vibracore. The mitigation measures outlined in this section are based on protocols and procedures that have been successfully implemented and resulted in no observed take of marine mammals for similar offshore projects and previously approved by NMFS (ESS 2013; Dominion 2013 and 2014).

Marine Mammal Exclusion Zones

PSOs will monitor the following exclusion/monitoring zones for the presence of marine mammals:

- A 200-m exclusion zone during all geophysical and geotechnical operations.
- A 400-m exclusion zone during the use of sparkers.

These exclusion zones are exclusion zone specified in stipulations of the OCS–A 0486 Lease Agreement.

- A 208-m exclusion zone for harbor porpoise only, during vibracore activities, only.

Visual Monitoring

Visual monitoring of the established exclusion zone(s) s will be performed by qualified and NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Observer qualifications will include direct field experience on a marine mammal observation vessel and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico. An observer team comprising a minimum of four NMFS-approved PSOs and two certified Passive Acoustic Monitoring (PAM) operators (PAM operators will not function as PSOs), operating in shifts, will be stationed aboard the survey vessel. PSOs and PAM operators will work in shifts such that no one monitor will work more than 4 consecutive hours without a 2-hour break or longer than 12 hours during any 24-hour period. Each PSO will monitor 360 degrees of all visible waters to the extent practicable so as to not undermine effectiveness of shutdown zone monitoring..

PSOs will be responsible for visually monitoring and identifying marine mammals approaching or within the established exclusion zone(s) during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and enforce the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. PAM operators will communicate detected vocalizations to the Lead PSO on duty, who will then be responsible for implementing the necessary mitigation procedures.

PSOs will be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the siting and monitoring of marine species. During night operations, PAM (see *Passive Acoustic Monitoring* requirements below) and night-vision equipment in combination with infrared technology will be used. Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting.

The PSOs will begin observation of all zone(s) at least 60 minutes prior to ramp-up of HRG survey equipment. Use of noise-producing equipment will not begin until the exclusion zone is clear of all marine mammals for at least 60 minutes, as per the requirements of the BOEM Lease.

If a marine mammal is detected approaching or entering the 200-m or 400-m exclusion zones, the vessel operator would adhere to the shutdown (during HRG survey) or powerdown (during DP thruster use) procedures described below to minimize noise impacts on the animals.

At all times, the vessel operator will maintain a separation distance of 500 m from any sighted North Atlantic right whale as stipulated in the *Vessel Strike Avoidance* procedures described below. These stated requirements will be included in the site-specific training to be provided to the survey team.

Passive Acoustic Monitoring

As per the BOEM Lease, alternative monitoring technologies (*e.g.,* active or passive acoustic monitoring) are required if a Lessee intends to conduct geophysical surveys at night or when visual observation is otherwise impaired. To support 24-hour HRG survey operations, DWW will include PAM as part of the project monitoring during nighttime operations to provide for optimal acquisition of species detections at night.

Given the range of species that could occur in the Project Area, the PAM system will consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kilohertz (kHz) to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 75 Hertz (Hz) to 30 kHz). The PAM operator(s) will monitor the hydrophone signals for detection of marine mammals in real time both aurally (using headphones) and visually (via the monitor screen displays). PAM operators will communicate detections to the Lead PSO on duty who will ensure the implementation of the appropriate mitigation measure.

Vessel Strike Avoidance

DWW will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammal sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures will include the following, except under extraordinary circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

• All vessel operators will comply with 10 knots (<18.5 km per hour [km/h]) speed restrictions in any Dynamic Management Area (DMA).
• All survey vessels will maintain a separation distance of 500 m or greater from any sighted North Atlantic right whale.
• If underway, vessels must steer a course away from any sited North Atlantic right whale at 10 knots (<18.5 km/h) or less until the 500 m minimum separation distance has been established. If a North Atlantic right whale is sited in a vessel's path, or within 100 m to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m.
• All vessels will maintain a separation distance of 100 m or greater from any sighted non-delphinoid (*i.e.,* mysticetes and sperm whales) cetaceans. If sighted, the vessel underway must reduce speed and shift the engine to neutral and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m.
• All vessels will maintain a separation distance of 50 m or greater from any sighted delphinoid cetacean. Any vessel underway will remain parallel to a sighted delphinoid cetacean's course whenever possible and avoid excessive speed or abrupt changes in direction. Any vessel underway reduces vessel speed to 10 knots or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or abeam (*i.e.,* moving away and at a right angle to the centerline of the vessel) of the underway vessel.
• All vessels will maintain a separation distance of 50 m or greater from any sighted pinniped.

The training program will be provided to NMFS for review and approval prior to the start of surveys. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey event.

Seasonal Operating Requirements

Between watch shifts, members of the monitoring team will consult the NMFS North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. The planned survey activities will, however, occur outside of the seasonal management area (SMA) located off the coasts of Delaware and New Jersey. The planned survey activities will also occur in June/July and September, which is outside of the seasonal mandatory speed restriction period for this SMA (November 1 through April 30).

Throughout all survey operations, DWW will monitor the NMFS North Atlantic right whale reporting systems for the establishment of a DMA. If NMFS should establish a DMA in the Lease Area under survey, within 24 hours of the establishment of the DMA, DWW will work with NMFS to shut down and/or alter the survey activities to avoid the DMA.

Ramp-Up

As per the BOEM Lease, a ramp-up procedure will be used for HRG survey equipment capable of adjusting energy levels at the start or re-start of HRG survey activities. A ramp-up procedure will be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the Project Area by allowing them to vacate the area prior to the commencement of survey equipment use. The ramp-up procedure will not be initiated during daytime, nighttime, or periods of inclement weather if the exclusion zone cannot be adequately monitored by the PSOs using the appropriate visual technology (*e.g.,* reticulated binoculars, night vision equipment) and/or PAM for a 60-minute period. A ramp-up would begin with the power of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. The power would then be gradually turned up and other acoustic sources added such that the source level would increase in steps not exceeding 6 dB per 5-minute period. If marine mammals are detected within the HRG survey exclusion zone prior to or during the ramp-up, activities will be delayed until the animal(s) has moved outside the monitoring zone and no marine mammals are detected for a period of 60 minutes.

The DP vessel thrusters will be engaged from the time the vessel leaves the dock to support the safe operation of the vessel and crew while conducting geotechnical survey activities and require use as necessary. Therefore, there is no opportunity to engage in a ramp-up procedure.

Shutdown and Powerdown

HRG Survey—The exclusion zone(s) around the noise-producing activities (HRG and geotechnical survey equipment) will be monitored, as previously described, by PSOs and at night by PAM operators for the presence of marine mammals before, during, and after any noise-producing activity. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement should be discussed only after shutdown.

As per the BOEM Lease, if a non-delphinoid (*i.e.,* mysticetes and sperm whales) cetacean is detected at or within the established exclusion zone (200-m exclusion zone during HRG surveys; 400-m exclusion zone during the operation of the sparker), an immediate shutdown of the survey equipment is required. Subsequent restart of the survey equipment must use the ramp-up procedures described above and may only occur following clearance of the exclusion zone for 60 minutes.

As per the BOEM Lease, if a delphinoid cetacean or pinniped is detected at or within the exclusion zone, the HRG survey equipment (including the sub-bottom profiler) must be powered down to the lowest power output that is technically feasible. Subsequent power up of the survey equipment must use the ramp-up procedures described above and may occur after (1) the exclusion zone is clear of a delphinoid cetacean and/or pinniped for 60 minutes or (2) a determination by the PSO after a minimum of 10 minutes of observation that the delphinoid cetacean or pinniped is approaching the vessel or towed equipment at a speed and vector that indicates voluntary approach to bow-ride or chase towed equipment.

If the HRG sound source (including the sub-bottom profiler) shuts down for reasons other than encroachment into the exclusion zone by a marine mammal including but not limited to a mechanical or electronic failure, resulting in in the cessation of sound source for a period greater than 20 minutes, a restart for the HRG survey equipment (including the sub-bottom profiler) is required using the full ramp-up procedures and clearance of the exclusion zone of all cetaceans and pinnipeds for 60 minutes. If the pause is less than 20 minutes, the equipment may be restarted as soon as practicable at its operational level as long as visual surveys were continued diligently

throughout the silent period and the exclusion zone remained clear of cetaceans and pinnipeds. If the visual surveys were not continued diligently during the pause of 20 minutes or less, a restart of the HRG survey equipment (including the sub-bottom profiler) is required using the full ramp-up procedures and clearance of the exclusion zone for all cetaceans and pinnipeds for 60 minutes.

Geotechnical Survey (DP Thrusters)—During geotechnical survey activities, a constant position over the drill, coring, or CPT site must be maintained to ensure the integrity of the survey equipment. During DP vessel operations if marine mammals enter or approach the established exclusion zone, DWW plans to reduce DP thruster to the maximum extent possible, except under circumstances when ceasing DP thruster use would compromise safety (both human health and environmental) and/or the integrity of the Project. Reducing thruster energy will effectively reduce the potential for exposure of marine mammals to sound energy. Normal use may resume when PSOs report that the monitoring zone has remained clear of marine mammals for a minimum of 60 minutes since last the sighting.

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations (ITAs) must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring measures prescribed by NMFS should contribute to improved understanding of one or more of the following general goals:

- Occurrence of marine mammal species or stocks in the action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

DWW submitted marine mammal monitoring and reporting measures as part of the IHA application.

Visual Monitoring—Visual monitoring all visible waters during all HRG and geotechnical surveys will be performed by qualified and NMFS-approved PSOs (see discussion of PSO qualifications and requirements in *Marine Mammal Exclusion Zones* above).

The PSOs will begin observation of the monitoring zone during all HRG survey activities and all geotechnical operations where DP thrusters are employed. Observations of the monitoring zone will continue throughout the survey activity and/or while DP thrusters are in use. PSOs will be responsible for visually monitoring and identifying marine mammals approaching or entering the established monitoring zone during survey activities.

Observations will take place from the highest available vantage point on the survey vessel. General 360-degree scanning will occur during the monitoring periods, and target scanning by the PSO will occur when alerted of a marine mammal presence.

Data on all PSO observations will be recorded based on standard PSO collection requirements. This will include dates and locations of construction operations; time of observation, location and weather; details of the sightings (*e.g.,* species, age classification (if known), numbers, behavior); an estimate of the observable distance recorded at each shift change, and details of any observed ''taking'' (behavioral disturbances or injury/mortality). If the entire zone was not observable, DWW will provide an adjusted total take number based on the number of animals observed, and the area that was not observed. The data sheet will be provided to both NMFS and BOEM for review and approval prior to the start of survey activities. In addition, prior to initiation of survey work, all crew members will undergo environmental training, a component of which will focus on the procedures for sighting and protection of marine mammals. A briefing will also be conducted between the survey supervisors and crews, the PSOs, and DWW. The purpose of the briefing will be to establish responsibilities of each party, define the chains of command, discuss communication procedures, provide an overview of monitoring purposes, and review operational procedures.

Acoustic Field Verification—As per the requirements of the BOEM Lease, field verification of the exclusion/monitoring zones will be conducted to determine whether the zones correspond accurately to the relevant isopleths and are adequate to minimize impacts to marine mammals. The details of the field verification strategy will be provided in a Field Verification Plan no later than 45 days prior to the commencement of field verification activities.

DWW must conduct field verification of the exclusion zone (the 160 dB isopleth) for HRG survey equipment and the exclusion zone (the 120 dB isopleth) for DP thruster use for all equipment operating below 200 kHz. DWW must take acoustic measurements at a minimum of two reference locations and in a manner that is sufficient to establish source level (peak at 1 meter) and distance to the 160 dB isopleths (the B harassment zones for HRG surveys) and 120 dB isopleth (the Level B harassment zone) for DP thruster use. Sound measurements must be taken at the reference locations at two depths (*i.e.,* a depth at mid-water and a depth at approximately 1 meter (3.28 ft) above the seafloor).

DWW may use the results from its field-verification efforts to request modification of the exclusion/monitoring zones for the HRG or geotechnical surveys. Any new exclusion/monitoring zone radius

proposed by DWW must be based on the most conservative measurements (*i.e.,* the largest safety zone configuration) of the target Level A or Level B harassment acoustic threshold zones. The modified zone must be used for all subsequent use of field-verified equipment. DWW must obtain approval from NMFS and BOEM of any new exclusion/monitoring zone before it may be implemented, and the IHA shall be modified accordingly.

Reporting Measures

DWW will provide the following reports as necessary during survey activities:

- The Applicant will contact NMFS and BOEM within 24 hours of the commencement of survey activities and again within 24 hours of the completion of the activity.
- As per the BOEM Lease: Any observed significant behavioral reactions (*e.g.,* animals departing the area) or injury or mortality to any marine mammals must be reported to NMFS and BOEM within 24 hours of observation. Dead or injured protected species are reported to the NMFS Greater Atlantic Regional Fisheries Office (GARFO) Stranding Hotline (800–900–3622) within 24 hours of sighting, regardless of whether the injury is caused by a vessel. In addition, if the injury of death was caused by a collision with a project related vessel, DWW must ensure that NMFS and BOEM are notified of the strike within 24 hours. DWW must use the form included as Appendix A to Addendum C of the Lease to report the sighting or incident. Additional reporting requirements for injured or dead animals are described below (*Notification of Injured or Dead Marine Mammals*).
- *Notification of Injured or Dead Marine Mammals*—In the unanticipated event that the specified HRG and geotechnical activities lead to an injury of a marine mammal (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), DWW would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NOAA GARFO Stranding Coordinator. The report would include the following information:
  - Time, date, and location (latitude/longitude) of the incident;
  - Name and type of vessel involved;
  - Vessel's speed during and leading up to the incident;
  - Description of the incident;
  - Status of all sound source use in the 24 hours preceding the incident;
  - Water depth;
  - Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
  - Description of all marine mammal observations in the 24 hours preceding the incident;
  - Species identification or description of the animal(s) involved;
  - Fate of the animal(s); and
  - Photographs or video footage of the animal(s) (if equipment is available).

  Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with DWW to minimize reoccurrence of such an event in the future. DWW would not resume activities until notified by NMFS.

  In the event that DWW discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), DWW would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the GARFO Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with DWW to determine if modifications in the activities are appropriate.

  In the event that DWW discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), DWW would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, and the GARFO Regional Stranding Coordinator, within 24 hours of the discovery. DWW would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. DWW can continue its operations under such a case.
- Within 90 days after completion of the marine site characterization survey activities, a technical report will be provided to NMFS and BOEM that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of marine mammals that may have been taken during survey activities, and provides an interpretation of the results and effectiveness of all monitoring tasks. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS.
- In addition to the Applicant's reporting requirements outlined above, DWW will provide an assessment report of the effectiveness of the various mitigation techniques, *i.e.* visual observations during day and night, compared to the PAM detections/operations. This will be submitted as a draft to NMFS and BOEM 30 days after the completion of the HRG and geotechnical surveys and as a final version 60 days after completion of the surveys.

Negligible Impact Analysis and Determinations

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration, etc.), as well as effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for the NMFS implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

As discussed in the *Potential Effects* section, PTS, masking, non-auditory physical effects, and vessel strike are not expected to occur. Further, once an area has been surveyed, it is not likely that it will be surveyed again, thereby reducing the likelihood of repeated impacts within the project area.

Potential impacts to marine mammal habitat were discussed previously in

this document (see the *Potential Effects of the Specified Activity on Marine Mammals and their Habitat* section). Marine mammal habitat may be impacted by elevated sound levels and some sediment disturbance, but these impacts would be temporary. Also, feeding behavior is less likely to be impacted than other behavioral patterns, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.,* 1995). Additionally, prey species are mobile and are broadly distributed throughout the Project Area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance, and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. Furthermore, there are no rookeries or mating grounds known to be biologically important to marine mammals within the project area. A biologically important feeding area for fin whales East of Montauk Point (from March to October) and a biologically important migratory route effective March-April and November-December for North Atlantic right whale, occur near the Project Area (LaBrecque, *et al.,* 2015). However, there is only a small temporal overlap between the migratory biologically important area (BIA) and the planned survey activities in November and December.

ESA-listed species for which takes are authorized are North Atlantic right, sperm, sei and fin whales. Recent estimates of abundance indicate a potential declining right whale population; however, this may also be due to low sighting rates in areas where right whales were present in previous years, due to a shift in habitat use patterns (Waring *et al.,* 2016). While we are concerned about declining right whale populations, and we are authorizing take of 105 individuals, as described elsewhere in this section the anticipated impacts are expected to be in the form of shorter-term lower level disturbance in areas that are not of particular known importance for right whales, and not expected to have any impacts on health or fitness. There are currently insufficient data to determine population trends for fin whale, sei whale, and sperm whale (Waring *et al.,* 2015). There is no designated critical habitat for any ESA-listed marine mammals within the Project Area, and most of the stocks for non-listed species authorized to be taken are not considered depleted or strategic by NMFS under the MMPA. Of the two non-listed species that are considered strategic for which take is requested (false killer whale and long-finned pilot whale), take is less than one percent of the entire populations. Therefore, the planned site characterization surveys will not have population-level effects, and we do not expect them to impact annual rates of recruitment or survival.

The mitigation measures are expected to reduce the number and/or severity of takes by (1) giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy; (2) reducing the intensity of exposure within a certain distance by reducing the DP thruster power; and (3) preventing animals from being exposed to sound levels that may cause injury. Additional vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the Study Area.

DWW did not request, and NMFS is not authorizing, take of marine mammals by serious injury or mortality. NMFS expects that most takes would be in the form of a very small number of short-term Level B behavioral harassment in the form of brief startling reaction and/or temporary avoidance of the area or decreased foraging (if such activity were occurring)—reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). This is largely due to the short time scale of the planned activities, the low source levels and intermittent nature of many of the technologies planned to be used, as well as the required mitigation.

NMFS concludes that exposures to marine mammal species and stocks due to DWW's HRG and geotechnical survey activities would result in only short-term and relatively infrequent effects to individuals exposed and not of the type or severity that would be expected to be additive for the small portion of the stocks and species likely to be exposed. NMFS does not anticipate the authorized takes to impact annual rates of recruitment or survival, because although animals may temporarily avoid the immediate area, they are not expected to permanently abandon the area. Additionally, major shifts in habitat use, distribution, or foraging success, are not expected.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of the relevant species or stock size in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The takes authorized for the HRG and geotechnical surveys represent less than 1 percent for 11 stocks (sei whale, minke whale, sperm whale, false killer whale, Cuvier's beaked whale, long-finned pilot whale, white-beaked dolphin, Atlantic spotted dolphin, striped dolphin, bottlenose dolphin, and gray seal); 1.05 percent for Atlantic white-sided dolphin; 1.48 percent for harbor porpoise; 2.04 percent for short-beaked common dolphin; 4.51 percent for fin whale; 6.43 percent for humpback whale; and 14.68 percent for harbor seal (Table 6). Just under 24 percent of the North Atlantic right whale stock has take authorized; however, this is for the entire duration of the project activities (mid-June through December), and while this stock of right whales may be present in very low numbers in the winter months (November and December) in this area, most animals have moved off the feeding grounds and have moved to the breeding grounds during this time. We do not expect a large number of right whales to be in the area for nearly one third of the project duration. Only repeated takes of some individuals are likely and this is an overestimate of the number of individual right whales that may actually be impacted by project activities. However, we analyzed the potential for take of 23.86 percent of the individual right whales in the context of the anticipated effects described previously.

These take estimates represent the percentage of each species or stock that could be taken by Level B harassment and are small numbers relative to the affected species or stock sizes. Further, the take numbers represent the instances of take and are the maximum numbers of individual animals that are expected to be harassed during the project; it is possible that some exposures may occur to the same individual.

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

TABLE 6—SUMMARY OF MARINE MAMMAL TAKES AND PERCENTAGE OF STOCKS AFFECTED

Species	Authorized Level B take (No.)	Authorized Level A take (No.)	Stock abundance estimate	Percentage of stock affected
North Atlantic right whale (*Eubalaena glacialis*)	105	0	440	23.86
Fin Whale (*Balaenoptera physalus*)	73	0	1,618	4.51
Sei whale (*Balaenoptera borealis*)	3	0	357	0.84
Humpback whale (*Megaptera novaeangliae*)	53	0	823	6.43
Minke whale (*Balaenoptera acutorostrata*)	16	0	2,591	0.62
Sperm whale (Physeter macrocephalus)	3	0	2,288	0.13
False killer whale (*Pseudorca crassidens*)	3	0	442	0.68
Cuvier's beaked whale (*Ziphius cavirostris*)	6	0	6,532	0.09
Long-finned pilot whale (*Globicephala melas*)	53	0	5,636	0.94
Atlantic white-sided dolphin (*Lagenorhynchus acutus*)	513	0	48,819	1.05
White-beaked dolphin (*Lagenorhynhcus albirostris*)	3	0	2,003	0.15
Short beaked common Dolphin (*Delphinus delphis*)	1,433	0	70,184	2.04
Atlantic spotted dolphin (*Stenella frontalis*)	2	0	44,715	0.0045
Striped dolphin (*Stenella coruleoalba*)	1	0	54,807	0.0018
Bottlenose Dolphin (*Tursiops truncatus*)	411	0	77,532	0.53
Harbor Porpoise (*Phocoena phocoena*)	1188	0	79,883	1.48
Harbor Seal[1] *(Phoca vitulina)*	11,137	0	75,834	14.68
Gray seal (*Halichoerus grypus*)	1293	0	505,000	0.25

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Greater Atlantic Regional Fisheries Office (GARFO) Protected Resources Division, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of three listed species, which are listed under the ESA: fin, humpback, and North Atlantic right whale. Under section 7 of the ESA, BOEM consulted with NMFS on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. NOAA's GARFO issued a Biological Opinion concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of fin whale, humpback whale, or North Atlantic right whale. The Biological Opinion can be found online at *http://www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm.* NMFS is also consulting internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Following issuance of the DWW's IHA, the Biological Opinion may be amended to include an incidental take exemption for these marine mammal species, as appropriate.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA). A Finding of No Significant Impact (FONSI) was signed in June 2017. A copy of the EA and FONSI are posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/energy_other.htm.*

Authorization

NMFS has issued an IHA to Deepwater Wind for the potential harassment of small numbers of 18 marine mammal species incidental to high-resolution geophysical (HRG) and geotechnical survey investigations associated with marine site characterization activities off the coast of New York in the Project Area, provided the previously mentioned mitigation, monitoring and reporting.

Dated: July 10, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–14699 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF533

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public webinar meeting.

DATES: The meeting will be held on Tuesday, August 1, 2017, from 2 p.m. until 4:30 p.m.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. The webinar can be accessed at *http://mafmc.adobeconnect.com/chub_hms_diet/.* Audio can be accessed through the webinar link or by dialing 1–800–832–0736 and entering meeting room number 5068871.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The goal of this webinar is to understand the importance of Atlantic chub mackerel (*Scomber colias*) to the diets of highly migratory species (HMS) predators in U.S. waters, with a focus on recreationally-important predators such as large tunas and billfish. The objectives of the meeting are to: (1) Convene a panel of scientific experts on HMS diets, (2) clarify what is known about the importance of chub mackerel to HMS diets based on currently available data, and (3) develop recommendations for future studies to quantify the role of chub mackerel in HMS diets. Meeting these objectives will help the Council analyze the potential impacts of chub mackerel management alternatives on HMS predators as well as on recreational fisheries for those predators. The Council is developing chub mackerel management alternatives through an amendment to the Mackerel, Squid, Butterfish Fishery Management Plan. More information on the amendment is available at: *http://www.mafmc.org/actions/chub-mackerel-amendment.* To facilitate productive discussions among the invited experts, public participation during this webinar meeting will be limited to designated question and answer and comment periods. Members of the public are invited to email questions for the invited experts to Council staff (*jbeaty@mafmc.org*) in advance of the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: July 7, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–14622 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF530

[Marine Mammals; File No. 21006]

Receipt of Application

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Linnea Pearson, California Polytechnic State University, 1 Grand Ave, San Luis Obispo, CA 93407, has applied in due form for a permit to conduct research on Weddell seals (*Leptonychotes weddellii*).

DATES: Written, telefaxed, or email comments must be received on or before August 14, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21006 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to study the thermoregulatory strategies (insulation, thermogenic mechanisms) by which Weddell seal pups maintain euthermia in air and in water and examine the development of diving capability (oxygen stores) as the animals prepare for independent foraging. This study will take place near McMurdo Station in Antarctica. In each field season (two field seasons total), ten pups (20 total) will be handled at four time points

between one week and eight weeks of age. Protocols not requiring sedation (mass, morphometrics, core and surface temperatures, metabolic rates) as well as protocols requiring anesthesia (body composition, biopsies, and blood volume analysis) will be conducted on five individuals at all four time points under manual restraint. Metabolic and morphometric measurements will be conducted on a separate cohort of five pups at each of the four time points. The applicant is also proposing to take up to 350 animals for flipper tag reading, thermal imaging, and incidental harassment due to work with conspecifics. Take of seven Weddell seal pups, 15 Weddell seal adult females, and 20 crabeater seals is also requested due to harassment from capturing the Weddell seal pups. Up to two pup mortalities are requested annually, not to exceed three over the two field seasons. The permit would be valid for two years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 10, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–14714 Filed 7–12–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before August 14, 2017.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of the notice's publication, by email at *OIRAsubmissions@omb.eop.gov.* Please identify the comments by OMB Control No. 3038–0070. Please provide the Commission with a copy of all submitted documents at the address listed below. Please refer to OMB Control No. 3038–0070, found on *http://reginfo.gov.* Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503. You may also submit comments, identified by ''Renewal of Collection Pertaining to Real-Time Public Reporting and Block Trade,'' to the Commission by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

A copy of the supporting statements for the collection of information discussed above may be obtained by visiting *http://regInfo.gov.* All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: John W. Dunfee, Assistant General Counsel, Office of General Counsel, Commodity Futures Trading Commission, (202) 418–5396; email: *jdunfee@cftc.gov,* and refer to OMB Control No. 3038–0070.

SUPPLEMENTARY INFORMATION:

Title: Real-Time Public Reporting and Block Trade (OMB Control No. 3038–0070). This is a request for extension of currently approved information collections.

Abstract: Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) added to the Commodity Exchange Act (CEA) new section 2(a)(13), which establishes standards and requirements related to real-time reporting and the public availability of swap transaction and pricing data. Section 2(a)(13) and part 43 of the Commission's Regulations require reporting parties to publish real-time swap transactions and pricing data to the general public. Without the frequency of reporting set forth in part 43, the Commission would not be able to adequately assess the swap markets and, more importantly, would fail to achieve the frequency of reporting and promotion of increased price discovery in the swaps market which are mandated by the Dodd-Frank Act.

Burden Statement: Part 43 of the Commission's regulations results in three information collection requirements within the meaning of the PRA.[1] The first collection of information requirement under part 43 imposes a reporting requirement on registered swap execution facilities (''SEFs'') or designated contract markets (''DCMs'') when a swap is executed on a trading facility or on the parties to a swap transaction when the swap is executed bilaterally. The second collection of information requirement under part 43 of the Commission's regulations creates a public dissemination requirement on registered swap data repositories (''SDRs''). The third collection of information requirement imposes a recordkeeping requirement for SEFs, DCMs, SDRs and any reporting party (as such term is defined in part 43 of the Commission's regulations).

The Commission notes that rather than the initial estimate of 40 SEFs, there currently are 25 SEFs either registered with the Commission or with registration pending.[2] The Commission notes that rather than the initial estimate of 18 DCMs, there currently are 15 DCMs registered with the Commission.[3] The Commission notes that rather than the initial estimate of 15 SDRs, there currently are 4 SDRs registered with the Commission.[4] Based on the experience gained by the Commission with regard to SDRs, the Commission estimates that rather than the initial estimate of 750 reporting parties who are not swap dealers (''SDs'') or major swap participants (''MSPs''), and who contract with third parties to satisfy their reporting obligations, there are 496 such reporting

[1] *See* 77 FR 1182, 1229; 78 FR 32866, 32913.

[2] *See* 77 FR at 1229.

[3] *See* 77 FR at 1229.

[4] *See* 77 FR at 1230.

parties.[5] The Commission estimates that rather than the initial estimate of 250 reporting parties who are not swap dealers (''SDs'') or major swap participants (''MSPs''), and who satisfy their reporting obligations themselves, there are 207 such reporting parties.[6] The burden hours for each entity category based upon these new estimates are noted in the applicable table below.

RECURRING ANNUAL BURDEN HOURS FOR SEFs

Respondents/Affected Entities: SEFs.
Estimated number of respondents: 25.
Estimated total annual burden on respondents: 52,000 hours.[7]

RECURRING ANNUAL BURDEN HOURS FOR SEFs

Respondents/Affected Entities: DCMs.
Estimated number of respondents: 15.
Estimated total annual burden on respondents: 31,200 hours.[8]

RECURRING ANNUAL BURDEN HOURS FOR SDRs

Respondents/Affected Entities: SDRs.
Estimated number of respondents: 4.
Estimated total annual burden on respondents: 27,600 hours.[9]

RECURRING ANNUAL BURDEN HOURS FOR NON SD/MSPS USING THIRD PARTY

Respondents/Affected Entities: Non SD/MSPs Using Third Party.
Estimated number of respondents: 496.
Estimated total annual burden on respondents: 10,912 hours.[10]

RECURRING ANNUAL BURDEN HOURS FOR NON SD/MSPS REPORTING THEMSELVES

Respondents/Affected Entities: Non SD/MSPs Reporting Themselves.
Estimated number of respondents: 207.
Estimated total annual burden on respondents: 139,932 hours.[11]

In addition to the above burden hours for compliance with part 43 obligations generally, the Commission determined that certain market participants would incur burden hours associated with the masking of the geographic detail of the underlying assets to a swap in the other commodity asset class, and with the election to have a swap transaction treated as a block trade or large notional off-facility swap.[12] The Commission initially estimated that respondent SDRs would incur an aggregate of 833 annual burden hours in connection with the masking of geographic detail of the underlying assets to a swap in the other commodity asset class.[13] Based on the Commission's observation of registered SDRs' operations and compliance with part 43's requirements, the Commission is increasing this estimate and now estimates that SDRs will incur an aggregate of 3,307 annual burden hours in connection with the masking of geographic detail of the underlying assets to a swap in the other commodity asset class.[14]

The Commission initially estimated that market participants would incur an aggregate of 2,167 annual burden hours in connection with the election to have a swap transaction treated as a block trade.[15] Based on the Commission's observation of market participants' compliance with part 43's requirements, the Commission is increasing this estimate and now estimates that market participants will incur an aggregate of 3,648 annual burden hours in connection with the election to have a swap transaction treated as a block trade.[16]

The Commission initially estimated that market participants would incur an aggregate of 2,255 annual burden hours in connection with the election to have a swap transaction treated as a large notional off-facility swap.[17] Based on the Commission's observation of market participants' compliance with part 43's requirements, the Commission is increasing this estimate and now estimates that market participants will incur an aggregate of 77,230 annual burden hours in connection with the election to have a swap transaction treated as a large notional off-facility swap.[18]

Authority: 44 U.S.C. 3501 *et seq.*

Dated: July 7, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–14647 Filed 7–12–17; 8:45 am]

BILLING CODE 6351–01–P

[5] *See* 77 FR at 1230.

[6] *See* 77 FR at 1230.

[7] 2,080 average recurring burden hours per respondent SEF × 25 registered SEFs = 52,000 total burden hours for all registered SEFs.

[8] 2,080 average recurring burden hours per respondent DCM × 15 registered DCMs = 31,200 total burden hours for all registered DCMs.

[9] 6,900 average recurring burden hours per respondent SDR × 4 registered SDRs = 27,600 total burden hours for all registered SDRs.

[10] 22 average recurring burden hours per respondent × 496 respondents = 10,912 total burden hours for all respondents.

[11] 676 average recurring burden hours per respondent × 207 respondents = 139,932 total burden hours for all respondents.

[12] *See* 78 FR 32866, 32913.

[13] *See* 78 FR 32866, 32915 (50,000 other commodity swaps with masked locations × 0.0167 hours (one minute) of burden per response = 833 total burden hours).

[14] 198,022 other commodity swaps with masked locations × 0.0167 hours (one minute) of burden per response = 3,307 total annual burden hours.

[15] *See* 78 FR 32866, 32913–14 (125,000 elections by SDs/MSPs + 5,000 elections by nonSDs/MSPs = 130,000 total annual elections. 130,000 elections × 0.0167 hours (one minute) of burden per response = 2,167 total annual burden hours).

[16] 218,428 block trades × 0.0167 hours (one minute) of burden per response = 3,648 total annual burden hours.

[17] *See* 78 FR 32866, 32914 (62,500 elections by SDs/MSPs + 5,000 elections by nonSDs/MSPs = 63,000 total annual elections. 67,500 elections × 0.0334 hours (two minutes) of burden per response = 2,255 total annual burden hours).

[18] 2,312,265 large notional off-facility swaps × 0.0334 hours (two minutes) of burden per response = 77,230 total annual burden hours.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for Renewal of the Disaster Response Cooperative Agreement (DRCA)

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, CNCS is proposing to renew an information collection.

DATES: Written comments must be submitted to the individual and office listed below by September 11, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov.* You may submit comments, identified by the title of the information collection activity by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention: Chad Stover, Disaster Services, 250 E St. SW., Suite 300, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom, Room 4200 at the mailing address above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Chad Stover, 202–606–6925, or by email at *cstover@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Corporation for National and Community Service (CNCS), in accordance to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Sec. 3506(c)(2)(A)), provides the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information. This helps CNCS assess the impact of its information collection requirements and minimize the public's reporting burden (time and financial resources). It also helps the public understand CNCS' information collection requirements and provide the requested data in the desired format. CNCS is soliciting comments on the proposed renewal information collection request (ICR) that is described below. CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected 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 submissions of responses).

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. Please note that written comments received in response to this notice will become a matter of public record.

Title of Collection: Application Package for Renewal of the Disaster Response Cooperative Agreement.

OMB Control Number: 3045–0133.

Type of Review: Renewal of information collection.

Respondents/Affected Public: Current grantees and CNCS-supported programs.

Total Estimated Number of Annual Respondents: 100.

Total Estimated Annual Frequency: Varies, see chart.

Total Estimated Average Response Time per Response: Varies, see chart.

Total Estimated Number of Annual Burden Hours: 4,970.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Instrument	Frequency per year	Respondents	Time per response (hours)	Total time per instrument
DRCA Application	1	40	8	320
DRT Quarterly Capacity Assessment	4	25	1	100
CNCS Disaster Budget and Deployment Form	5	25	1	125
CNCS Disaster Budget and Deployment Amendment Form	5	25	1	125
CNCS National Service Daily Situation Report	150	25	1	3750
CNCS National Service Daily Situation Report Full Guidance	1	25	2	50
CNCS Disaster Deployment After Action Report	5	25	2	250
CNCS–FEMA Mission Assignment Reimbursement Form	5	25	2	250
Total	176	215	18	4970

Abstract

CNCS seeks renewal of the current information collection pursuant to the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 *et seq.*) and the National and Community Service Act of 1990, (42 U.S.C. 12501 *et seq.*) The information collected will be used to help CNCS more effectively utilize its deployable resources to meet the needs of disaster affected communities. A better understanding of the participating programs will allow CNCS to match the capabilities of the programs to the needs of the communities and will allow better asset mapping and resource typing. Additionally, the information collected will allow CNCS to conduct better outreach to interested programs by providing them with more information about CNCS disaster procedures, reimbursement requirements, and support services offered.

The revisions are intended to streamline the application process and ensure interested programs meet the appropriate programmatic and fiscal requirements to successfully execute disaster response activities. Additionally, the supporting forms will help CNCS identify and deploy programs more effectively and efficiently, matching the capabilities of the programs to the needs of the communities requesting assistance. The additional tools and forms under the DRCA will allow for effective information collection during a disaster event as well as assess the capacity of all DRCA programs throughout the year. Information will be collected electronically through completion of the forms and emailed to CNCS. The information collection will otherwise be used in the same manner as the existing application.

CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on December 31, 2017.

Dated: July 10, 2017.

Kelly DeGraff,

Senior Advisor, Disaster Services Unit, Corporation for National and Community Service.

[FR Doc. 2017–14728 Filed 7–12–17; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0008]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the

following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 14, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Federal Post Card Application (FPCA), Standard Form 76 (SF–76); OMB Control Number 0704–0503.

Type of Request: Revision.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 0.25 hours.

Annual Burden Hours: 300,000 hours.

Needs and Uses: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. 203, requires the Presidential designee (Secretary of Defense) to prescribe official forms, containing an absentee voter registration application, an absentee ballot request application and a backup ballot for use by the States to permit absent uniformed services voters and overseas voters to participate in general, special, primary and runoff elections for Federal office. The authority for the States to collect personal information comes from UOCAVA. The burden for collecting this information resides in the States. The Federal government neither collects nor retains any personal information associated with these forms.

The collected information will be used by election officials to process uniformed service members, spouses and overseas citizens who submit their information to register to vote, receive an absentee ballot or cast a write-in ballot. The collected information will be retained by election officials to provide election materials, including absentee ballots, to the uniformed services, their eligible family members and overseas voters during the form's eligibility period provided by State law. No information from the Federal Post Card Application (FPCA) is collected or retained by the Federal government.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: July 7, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–14674 Filed 7–12–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0034]

Proposed Collection; Comment Request

AGENCY: Defense Threat Reduction Agency (DTRA), DOD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 11, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Threat Reduction Agency, Attn: NTPR, 8725 John J. Kingman Road, Stop 6210, Fort Belvoir, VA 22060–6201, or call (703)767–3175.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Nuclear Test Personnel Review Forms; DTRA Form 150, DTRA Form 150A, DTRA Form 150B, and DTRA Form 150C; OMB Control Number 0704–0447.

Needs and Uses: The information collection requirement is necessary to collect irradiation scenario information from nuclear test participants to perform their radiation dose assessment. The DTRA radiation dose assessments are provided to the Department of Veterans Affairs in support of veteran radiogenic disease compensation claims. This information may also be used in approved veteran epidemiology studies that study the health impact of nuclear tests on U.S. veterans.

Affected Public: Individuals and households.

Annual Burden Hours: 71.7.

Number of Respondents: 86.

Responses per Respondent: 1.

Annual Responses: 86.

Average Burden per Response: 50 minutes.

Frequency: On occasion.

Veterans and their representatives routinely contact DTRA (by phone and mail) to request information regarding participation in U.S. atmospheric nuclear testing. A release form is required to certify the identity of the request and authorize the release of Privacy Act information (to the veteran or a 3rd party). DTRA is also required to collect irradiation scenario information from nuclear test participants to accurately determine their radiation dose assessment.

Dated: July 7, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–14658 Filed 7–12–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2014–0016]

Proposed Collection; Comment Request

AGENCY: Marine Junior Reserve Officer's Training Corps (MCJROTC), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Marine Corps announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 11, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Commanding General, Training and Education Command (C46JR), MCCDC, 1019 Elliott Road, Quantico, VA 22134–5001, or call Mr. Robert Davis at (703) 784–0478.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Individual MCJROTC Instructor Evaluation Summary; NAVMC 10942; OMB Control Number 0703–0016.

Needs and Uses: The information collection requirement is necessary to provide a written record of the overall performance of duty of MCJROTC instructors who are responsible for implementing the MCJROTC curriculum. The individual MCJROTC Instructor Evaluation Summary is completed by principles to evaluate the effectiveness of individual MCJROTC instructors. The form is further used as a performance related counseling tool and as a record of service performance to document performance and growth of individual MCJROTC instructors. Evaluating the performance of instructors is essential in ensuring that they provide quality training.

Affected Public: Individuals or Households.

Annual Burden Hours: 254.5 hours.

Number of Respondents: 509.

Responses per Respondent: 1.

Annual Responses: 509.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

This form provides a written record of the overall performance of duty of MCJROTC instructors who are responsible for implementing the MCJROTC curriculum. The Individual MCJROTC Instructor Evaluation Summary is completed by principles to evaluate the effectiveness of individual MCJROTC instructors.

The form is further used as a performance related counseling tool and as a record of service performance to document performance and growth of individual MCJROTC instructors. Evaluating the performance of instructors is essential in ensuring that they provide quality training.

Dated: July 7, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–14651 Filed 7–12–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0059]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 14, 2017.

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–2017–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 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: William D. Ford Federal Direct Loan Program, Federal Direct PLUS Loan Request for Supplemental Information.

OMB Control Number: 1845–0103.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1,230,000.

Total Estimated Number of Annual Burden Hours: 615,000.

Abstract: The Federal Direct PLUS Loan Request for Supplemental Information serves as the means by which a parent or graduate/professional student Direct PLUS Loan applicant may provide certain information to a school that will assist the school in originating the borrower's Direct PLUS Loan award, as an alternative to providing this information to the school by other means established by the school.

Dated: July 10, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–14680 Filed 7–12–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0102]

Agency Information Collection Activities; Comment Request; 2017–18 National Postsecondary Student Aid Study Administrative Collection (NPSAS:18–AC)

AGENCY: National Center for Education Statistics (NCES), 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 September 11, 2017.

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–2017–ICCD–0102. 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 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

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: 2017–18 National Postsecondary Student Aid Study Administrative Collection (NPSAS:18–AC).

OMB Control Number: 1850–0666.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 10,804.

Total Estimated Number of Annual Burden Hours: 63,335.

Abstract: This request is to conduct the 2017–18 National Postsecondary Student Aid Study, Administrative Collection (NPSAS:18–AC). This study is being conducted by the National Center for Education Statistics (NCES). NPSAS is a nationally representative study of how students and their families finance education beyond high school. The first NPSAS was implemented by NCES during the 1986–87 academic year to meet the need for national data about significant financial aid issues. Since 1987, NPSAS has been fielded every 3 to 4 years, most recently during the 2015–16 academic year (NPSAS:16). This submission is for NPSAS:18–AC, which departs from the design of previous NPSAS studies in three respects: It is anticipated to include state-representative estimates for undergraduate students overall and in public 2-year and public 4-year institutions; it will provide financial aid estimates 2-years earlier than how the

studies were previously scheduled; and it will be the first NPSAS study without a student interview component. Future NPSAS collections will continue to include a student interview every four years (NPSAS:16, NPSAS:20, NPSAS:24) to yield nationally representative data. In alternating cycles, an Administrative Collection (NPSAS:18–AC, NPSAS:22–AC, and NPSAS:26–AC) will be conducted in which only administrative data from the Department's data systems and institutional student records will be compiled to yield state representative data. This submission covers materials and procedures related to enrollment list collection, student record abstractions, and matching to administrative data files as part of the NPSAS:18–AC data collection.

Dated: July 10, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–14678 Filed 7–12–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0044]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2018–2019 Free Application for Federal Student Aid (FAFSA)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of the existing information collection.

DATES: Interested persons are invited to submit comments on or before August 14, 2017.

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–2017–ICCD–0044. 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 not 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, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact the Applicant Products Team at *StudentExperienceGroup@ed.gov*.

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 ED assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ED'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. ED is especially interested in public comments addressing the following issues: (1) Is this collection necessary to the proper function of ED; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might ED enhance the quality, utility, and clarity of the information to be collected; and (5) how might ED 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 the Collection: 2018–2019 Free Application for Federal Student Aid.

OMB Control Number: 1845–0001.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 39,226,771.

Total Estimated Number of Annual Burden Hours: 25,826,753.

Abstract: Section 483, of the Higher Education Act of 1965, as amended (HEA), mandates that the Secretary of Education ''. . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance . . .''.

The determination of need and eligibility are for the following Title IV, HEA, federal student financial assistance programs: The Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), and the Federal Perkins Loan Program); the William D. Ford Federal Direct Loan Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; and the Iraq and Afghanistan Service Grant.

Federal Student Aid (FSA), an office of the U.S. Department of Education, subsequently developed an application process to collect and process the data necessary to determine a student's eligibility to receive Title IV, HEA program assistance. The application process involves an applicant's submission of the *Free Application for Federal Student Aid* (FAFSA®). After submission and processing of the FAFSA, an applicant receives a *Student Aid Report* (SAR), which is a summary of the processed data they submitted on the FAFSA. The applicant reviews the SAR, and, if necessary, will make corrections or updates to their submitted FAFSA data. Institutions of higher education listed by the applicant on the FAFSA also receive a summary of processed data submitted on the FAFSA which is called the Institutional Student Information Record (ISIR).

ED and FSA seek OMB approval of all application components as a single ''collection of information''. The aggregate burden will be accounted for under OMB Control Number 1845–0001. The specific application components, descriptions, and submission methods for each are listed in Table 1.

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS

Component	Description	Submission method
Initial Submission of FAFSA		
FAFSA on the Web (FOTW)	Online FAFSA that offers applicants a customized experience	Submitted by the applicant via *fafsa.gov*.
FOTW–Renewal	Online FAFSA for applicants who have previously completed the FAFSA.	
FOTW–EZ	Online FAFSA for applicants who qualify for the Simplified Needs Test (SNT) or Automatic Zero (Auto Zero) needs analysis formulas.	
FOTW–EZ Renewal	Online FAFSA for applicants who have previously completed the FAFSA and who qualify for SNT or Auto Zero needs analysis formulas.	
FAA Access	Online tool that a financial aid administrator (FAA) utilizes to submit a FAFSA.	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
FAA Access—Renewal	Online tool that an FAA can utilize to submit a Renewal FAFSA	
FAA Access—EZ	Online tool that an FAA can utilize to submit a FAFSA for applicants who qualify for the SNT or Auto Zero needs analysis formulas.	
FAA Access—EZ Renewal	Online tool that an FAA can utilize to submit a FAFSA for applicants who have previously completed the FAFSA and who qualify for the SNT or Auto Zero needs analysis formulas.	
Electronic Other	This is a submission done by an FAA, on behalf of the applicant, using the Electronic Data Exchange (EDE).	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Printed FAFSA	The printed version of the PDF FAFSA for applicants who are unable to access the Internet or complete the form using FOTW.	Mailed by the applicant.
Correcting Submitted FAFSA Information and Reviewing FAFSA Information		
FOTW—Corrections	Any applicant who has a Federal Student Aid ID (FSA ID)—regardless of how they originally applied—may make corrections sing FOTW Corrections.	Submitted by the applicant via *fafsa.gov*.
Electronic Other—Corrections	With the applicant's permission, corrections can be made by an FAA using the EDE.	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Paper SAR—This is a SAR and an option for corrections.	The full paper summary that is mailed to paper applicants who did not provide an email address and to applicants whose records were rejected due to critical errors during processing. Applicants can write corrections directly on the paper SAR and mail for processing.	Mailed by the applicant.
FAA Access—Corrections	An institution can use FAA Access to correct the FAFSA	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
Internal Department Corrections	The Department will submit an applicant's record for system-generated corrections.	There is no burden to the applicants under this correction type as these are system-based corrections.
FSAIC Corrections	Any applicant, with their Data Release Number (DRN), can change the postsecondary institutions listed on their FAFSA or change their address by calling FSAIC.	These changes are made directly in the CPS system by an FSAIC representative.
SAR Electronic (eSAR)	The eSAR is an online version of the SAR that is available on FOTW to all applicants with an FSA ID. Notification for the eSAR are sent to students who applied electronically or by paper and provided an email address. These notifications are sent by email and include a secure hyperlink that takes the user to the FOTW site.	Cannot be submitted for processing.

This information collection also documents an estimate of the annual public burden as it relates to the application process for federal student aid. The Applicant Burden Model (ABM) measures applicant burden through an assessment of the activities each applicant conducts in conjunction with other applicant characteristics and, in terms of burden, the average applicant's experience. Key determinants of the ABM include:

- The total number of applicants that will potentially apply for federal student aid;
- How the applicant chooses to complete and submit the FAFSA (*e.g.,* by paper or electronically via FOTW®);
- How the applicant choose to submit any corrections and/or updates (*e.g.,* the paper SAR or electronically via FOTW Corrections);
- The type of SAR document the applicant receives (eSAR, SAR acknowledgment, or paper SAR);
- The formula applied to determine the applicant's expected family contribution (EFC) (full need analysis formula, Simplified Needs Test or Automatic Zero); and
- The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2018–2019 is based upon two factors—estimating the growth rate

of the total enrollment into post-secondary education and applying the growth rate to the FAFSA submissions. The ABM is also based on the application options available to students and parents. ED accounts for each application component based on web trending tools, survey information and other ED data sources.

For 2018–2019, ED is reporting a net burden increase of 5,790,741 hours.

Dated: July 10, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–14676 Filed 7–12–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0101]

Agency Information Collection Activities; Comment Request; Middle Grades Longitudinal Study of 2017–18 (MGLS:2017) Main Study Base Year (MS1), Operational Field Test First Follow-up (OFT2), and Tracking and Recruitment for Main Study First Follow-up (MS2)

AGENCY: National Center for Education Statistics (NCES), 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 September 11, 2017.

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–2017–ICCD–0101. 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 224–84, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

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: Middle Grades Longitudinal Study of 2017–18 (MGLS:2017) Main Study Base Year (MS1), Operational Field Test First Follow-up (OFT2), and Tracking and Recruitment for Main Study First Follow-up (MS2).

OMB Control Number: 1850–0911.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 119,799.

Total Estimated Number of Annual Burden Hours: 61,253.

Abstract: The Middle Grades Longitudinal Study of 2017–18 (MGLS:2017) is the first study conducted by the National Center for Education Statistics (NCES) to follow a nationally representative sample of students as they enter and move through the middle grades (grades 6–8). The data collected through repeated measures of key constructs will provide a rich descriptive picture of the academic experiences and development of students during these critical years and will allow researchers to examine associations between contextual factors and student outcomes. The study will focus on student achievement in mathematics and literacy along with measures of student socioemotional wellbeing and other outcomes. The study will also include a special sample of students with different types of disabilities that will provide descriptive information on their outcomes, educational experiences, and special education services. Main Study Base Year (MS1) data for the MGLS:2017 will be collected from a nationally-representative sample of sixth-grade students beginning in January 2018, with annual follow-ups beginning in January 2019 and in January 2020 when most of the students in the sample will be in grades 7 and 8, respectively. In preparation for the Main Study (MS), the data collection instruments and procedures were field tested. An Item Validation Field Test (IVFT) was conducted in the winter/spring of 2016 to determine the psychometric properties of assessment and survey items and the predictive potential of items so that valid, reliable, and useful assessment and survey instruments could be composed for the Main Study. The MGLS:2017 Operational Field Test (OFT) Base Year (OFT1) data collection was conducted in the winter/spring of 2017. Tracking of students and associated recruitment of schools for the OFT First Follow-up (OFT2) data collection is scheduled to begin in August 2017. The primary purpose of the OFT is to: (a) Obtain information on recruiting, particularly for students in three focal IDEA-defined disability groups: Specific learning disability, autism, and emotional disturbance; (b) obtain a tracking sample that can be used to study mobility patterns in subsequent years; and (c) test protocols, items, and administrative procedures. The MS1 district and school recruitment began in February 2017. The MS1 and OFT2 data collections will begin in January 2018. The Main Study First Follow-up (MS2) tracking and recruitment will begin in September 2018. OMB approved the MGLS:2017 OFT1 data collection, MS1 recruitment, and OFT2 tracking materials and procedures in December 2016 with the latest change request approved in June 2017 (OMB# 1850–0911 v.11–15). This request is to conduct: (1) The MS1 data collection; (2) the OFT2 recruitment and data collection; and (3) the tracking of Main Study sample students and associated recruitment of schools in

preparation for the MS2 data collection. Due to overlap in timing, the approved MS1 recruitment and OFT2 tracking activities are being carried over in this submission. Therefore, this submission presents the procedures, materials, and associated respondent burden for all activities related to MS1 and OFT2, as well as those related to MS2 tracking and recruitment.

Dated: July 10, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–14677 Filed 7–12–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2042–024; ER10–1858–004; ER10–1862–018; ER10–1870–004; ER10–1889–004; ER10–1893–018; ER10–1895–004; ER10–1934–018; ER10–1938–019; ER10–1942–016; ER10–1944–004; ER10–2029–008; ER10–2036–007; ER10–2040–006; ER10–2041–006; ER10–2043–006; ER10–2044–006; ER10–2051–006; ER10–2985–022; ER10–3049–023; ER10–3051–023; ER10–3260–006; ER11–4369–003; ER13–1401–004; ER14–2931–004; ER15–748–002; ER16–2218–003; ER17–696–004.

Applicants: Calpine Energy Services, L.P., Bethpage Energy Center 3, LLC, Calpine Bethlehem, LLC, Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine Fore River Energy Center, LLC, Calpine Mid-Atlantic Generation, LLC, Calpine Mid-Atlantic Marketing, LLC, Calpine Mid Merit, LLC, Calpine New Jersey Generation, LLC, Calpine PowerAmerica—CA, LLC, Calpine Vineland Solar, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, Champion Energy, LLC, CPN Bethpage 3rd Turbine, Inc., Garrison Energy Center LLC, Granite Ridge Energy, LLC, KIAC Partners, Nissequogue Cogen Partners, North American Power and Gas, LLC, Power Contract Financing, L.L.C., TBG Cogen Partners, Westbrook Energy Center, LLC, Zion Energy LLC, North American Power Business, LLC.

Description: Updated Market Power Analysis for the Calpine Northeast MBR Sellers.

Filed Date: 6/30/17.

Accession Number: 20170630–5469.

Comments Due: 5 p.m. ET 8/29/17.

Docket Numbers: ER11–2154–007.

Applicants: Twin Eagle Resource Management, LLC.

Description: Triennial Market Power Update for the Northeast Region of Twin Eagle Resource Management, LLC.

Filed Date: 6/30/17.

Accession Number: 20170630–5471.

Comments Due: 5 p.m. ET 8/29/17.

Docket Numbers: ER13–618–012; ER12–2570–013.

Applicants: Panther Creek Power Operating, LLC, Westwood Generation LLC.

Description: Triennial Report for the Northeast Region of Westwood Generation LLC, et. al.

Filed Date: 6/30/17.

Accession Number: 20170630–5473.

Comments Due: 5 p.m. ET 8/29/17.

Docket Numbers: ER15–1029–003.

Applicants: Chubu TT Energy Management Inc.

Description: Triennial Market Power Update for the Northeast Region of Chubu TT Energy Management Inc.

Filed Date: 6/30/17.

Accession Number: 20170630–5470.

Comments Due: 5 p.m. ET 8/29/17.

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: July 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–14653 Filed 7–12–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1852–017; ER17–838–001; ER11–4462–026; ER16–1277–003; ER16–1354–003; ER16–1913–002; ER16–1293–003.

Applicants: Florida Power & Light Company, Live Oak Solar, LLC, NextEra Energy Power Marketing, LLC, NEPM II, LLC, River Bend Solar, LLC, White Oak Solar, LLC, White Pine Solar, LLC.

Description: Triennial Market Power Update for Southeast Region and Request for Confidential Treatment of the NextEra Companies.

Filed Date: 6/30/17.

Accession Number: 20170630–5468.

Comments Due: 5 p.m. ET 8/29/17.

Docket Numbers: ER17–1432–001.

Applicants: California Independent System Operator Corporation.

Description: Tariff Amendment: 2017–07–05 Response to Deficiency Letter—GIDNUCR Amendment to be effective 6/18/2017.

Filed Date: 7/5/17.

Accession Number: 20170705–5136.

Comments Due: 5 p.m. ET 7/26/17.

Docket Numbers: ER17–1577–001.

Applicants: Reuel Energy LLC.

Description: Tariff Amendment: Reuel Energy LLC Revised MBR Application to be effective 7/7/2017.

Filed Date: 7/5/17.

Accession Number: 20170705–5065.

Comments Due: 5 p.m. ET 7/26/17.

Docket Numbers: ER17–1578–001.

Applicants: Keni Energy LLC.

Description: Tariff Amendment: Keni Energy LLC Revised MBR Application to be effective 7/7/2017.

Filed Date: 7/5/17.

Accession Number: 20170705–5067.

Comments Due: 5 p.m. ET 7/26/17.

Docket Numbers: ER17–2045–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Wholesale Market Participation Agreement No. 4749; Queue No. AC1–037 to be effective 6/29/2017.

Filed Date: 7/5/17.

Accession Number: 20170705–5057.

Comments Due: 5 p.m. ET 7/26/17.

Docket Numbers: ER17–2047–000.

Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Notice of Cancellation Letter Agreement with Riverside Public Utilities to be effective 9/4/2017.

Filed Date: 7/5/17.
Accession Number: 20170705–5085.
Comments Due: 5 p.m. ET 7/26/17.
Docket Numbers: ER17–2048–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 4597, Queue Position No. AB2–048 to be effective 11/30/2016.
Filed Date: 7/5/17.
Accession Number: 20170705–5086.
Comments Due: 5 p.m. ET 7/26/17.
Docket Numbers: ER17–2049–000.
Applicants: NRG Berrians East Development LLC, NRG Energy, Inc.
Description: Request for Limited Waiver of the NRG Companies.
Filed Date: 7/3/17.
Accession Number: 20170703–5230.
Comments Due: 5 p.m. ET 7/24/17.
Docket Numbers: ER17–2050–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1518R12 Arkansas Electric Cooperative Corp NITSA NOA to be effective 7/1/2017.
Filed Date: 7/6/17.
Accession Number: 20170706–5046.
Comments Due: 5 p.m. ET 7/27/17.
Docket Numbers: ER17–2051–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: Section 205 LGIA No. 2345 between NMPC and Selkirk to be effective 6/26/2017.
Filed Date: 7/6/17.
Accession Number: 20170706–5048.
Comments Due: 5 p.m. ET 7/27/17.

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: July 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–14652 Filed 7–12–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD17–15–000]

North Table Mountain Water and Sanitation District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On July 5, 2017, North Table Mountain Water and Sanitation District, filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed NTM Water Treatment Plant Hydro Project would have a combined installed capacity of 150 kilowatts (kW), and would be located along 24-inch diameter raw water pipeline. The project would be located near the Town of Golden in Jefferson County, Colorado.

Applicant Contact: Bart Sperry, North Table Mountain Water and Sanitation District, 14806 W 52nd Avenue, Golden, CO 80403 Phone No. (303) 279–2854, email *Bart@ntmwater.org.*

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A new 25-foot-long, 24-inch diameter intake pipe off the 24-inch raw water pipeline; (2) a new powerhouse containing one generating unit with an installed capacity of 150 kilowatts (kW); (3) a new 25-foot-long, 24-inch diameter discharge pipe which would connect to the 24-inch raw water pipeline going to the Water Treatment plant; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 250,000 kilowatt-hours (kWh).

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ..	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed hydroelectric project will utilize the existing raw water pipeline, and its addition will not alter the pipeline's primary purpose. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with

the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD17–15) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

[1] 18 CFR 385.2001–2005 (2016).

Dated: July 7, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–14705 Filed 7–12–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL17–30–000]

Nogales Transmission, L.L.C.; Nogales Frontier Operations, L.L.C.; Notice of Supplement To Petiton for Declaratory Order

Take notice that on June 30, 2017, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Nogales Transmission, L.L.C. (Nogales Transmission) and Nogales Frontier Operations, L.L.C. (Nogales Operations) filed a second supplement to its petition for declaratory order, filed on December 21, 2016, as more fully explained in its supplemented petition.

Any person desiring to intervene or to protest in this proceeding 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) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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 proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.or* call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on July 14, 2017.

Dated: July 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–14654 Filed 7–12–17; 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:

Docket Numbers: RP17–834–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Motion to Intervene of Southwest Gas Corporation under RP17–834.

Filed Date: 7/3/17.

Accession Number: 20170703–5203.

Comments Due: 5 p.m. ET 7/17/17.

Docket Numbers: RP17–885–000.

Applicants: Equitrans, L.P.

Description: Equitrans, L.P. submits tariff filing per 154.204: Negotiated Capacity Release Agreements—7/1/17 to be effective 7/1/2017.

Filed Date: 7/3/17.

Accession Number: 20170703–5086.

Comments Due: 5 p.m. ET 7/17/17.

Docket Numbers: RP17–886–000.

Applicants: WTG Hugoton, LP.

Description: WTG Hugoton, LP submits tariff filing per 154.204: Annual Fuel Retention Percentage Filing 2017–20181 to be effective 8/1/2017.

Filed Date: 7/3/17.

Accession Number: 20170703–5172.

Comments Due: 5 p.m. ET 7/17/17.

Docket Numbers: RP17–840–000.

Applicants: Rockies Express Pipeline LLC.

Description: (doc-less) Motion to Intervene of Rice Energy Marketing LLC.

Filed Date: 7/5/17.

Accession Number: 20170705–5033.

Comments Due: 5 p.m. ET 7/17/17.

Docket Number: PR17–51–000.

Applicants: Acacia Natural Gas, L.L.C.

Description: Tariff filing per 284.123(b),(e)/: Acacia Revisions to Update Corporate Address to be effective 6/28/2017.

Filed Date: 6/28/17.

Accession Number: 201706285175.

Comments/Protests Due: 5 p.m. ET 7/19/17.

Docket Number: PR17–52–000.

Applicants: Bridgeline Holdings, L.P.

Description: Tariff filing per 284.123(b),(e)/: Bridgeline Revisions to Update Corporate Address to be effective 6/28/2017.

Filed Date: 6/28/17.

Accession Number: 201706285176.

Comments/Protests Due: 5 p.m. ET 7/19/17.

Docket Number: PR17–53–000.

Applicants: Black Hills Gas Distribution LLC.

Description: Tariff filing per 284.123(b),(e)+(g): Revised Statement of Operating Conditions to be effective 6/1/2017.

Filed Date: 6/29/17.

Accession Number: 201706295176.

Comments Due: 5 p.m. ET 7/20/17.

284.123(g) Protests Due: 5 p.m. ET 8/28/17.

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: July 5, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–14675 Filed 7–12–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4428–010]

Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process: Walden Hydro, LLC

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 4428–010.

c. *Date Filed:* May 31, 2017.

d. *Submitted By:* Walden Hydro, LLC.

e. *Name of Project:* Walden Hydroelectric Project.

f. *Location:* On the Wallkill River, in Orange County, New York. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Kevin Webb, Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 935–6039; email—*Kevin.Webb@enel.com.*

i. *FERC Contact:* Jody Callihan at (202) 502–8278; or email at *jody.callihan@ferc.gov.*

j. Walden Hydro, LLC filed its request to use the Traditional Licensing Process on May 31, 2017, and provided public notice of its request on June 6, 2017. In a letter dated July 6, 2017, the Director of the Division of Hydropower Licensing approved Walden Hydro, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Walden Hydro, LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Walden Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 4428. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2020.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 6, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–14656 Filed 7–12–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9964–85–Region 1]

Notice of EPA's Action To Postpone the Effective Date of the EPA Region 1 Clean Water Act National Pollutant Discharge Elimination System General Permits for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that it took action to postpone the effective

date of its Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in Massachusetts. By its action, EPA postponed the July 1, 2017 effective date of the permit for one year, to July 1, 2018. EPA's postponement is available at: *https://www3.epa.gov/region1/npdes/stormwater/MS4_MA.html.*

DATES: Postponement date is June 29, 2017.

FOR FURTHER INFORMATION CONTACT: Thelma Murphy, Stormwater and Construction Permits Section OEP 06–4, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912; 617.918.1615; email address: *murphy.thelma@epa.gov.*

SUPPLEMENTARY INFORMATION: As stated in its postponement action, pursuant to section 705 of the Administrative Procedure Act (APA) (5 U.S.C. 705), and for the reasons stated below, the EPA postponed the effective date of the EPA-issued General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in Massachusetts (Massachusetts permit) from July 1, 2017 to July 1, 2018.

I. Background

EPA Region 1 issued the Massachusetts permit on April 4, 2016, with an effective date of July 1, 2017. Region 1 issued the previous general permit for Small MS4s in Massachusetts in 2003, which expired and was administratively continued for MS4s covered under that permit in 2008. EPA Region 1 issued the 2016 Massachusetts permit following issuance of the Commonwealth's CWA section 401 certification by the Massachusetts Department of Environmental Protection (MassDEP). The final 2016 permits were jointly issued by EPA and MassDEP, along with EPA's 632-page Response to Comments document.[1]

The Massachusetts Permit allows eligible small MS4s in Massachusetts to obtain NPDES permit coverage for their stormwater discharges. Approximately 260 towns and other municipalities, which include a number of state and federally owned entities such as colleges, Veterans Administration hospitals, prisons and military bases in Massachusetts, are eligible to seek coverage under the permit.

Several parties filed petitions for review of the Massachusetts permit in the U.S. Court of Appeals for the D.C. Circuit. Petitioners are the Center for Regulatory Reasonableness (CRR), Conservation Law Foundation/Charles River Watershed Association, National Association of Homebuilders, the City of Lowell, and the Town of Franklin. The D.C. Circuit has consolidated these petitions. See *Center for Regulatory Reasonableness, et al.* v. *EPA,* No. 16–1246 (D.C. Circuit).

On April 21, 2017, the D.C. Circuit granted CRR's motion to indefinitely stay the briefing deadlines. Under the original briefing schedule, petitioners would have filed their opening briefs on May 8, 2017. CRR cited several justifications in its motion to stay the original briefing deadlines, including providing time for the New Hampshire small MS4 general permit's judicial review period to end, providing time to address certain questions about the administrative record, and deadlines that the petitioners were facing in non-related litigation. EPA did not oppose this motion. Motions to govern further proceedings are due July 20, 2017.

On May 26, 2017, three of the petitioners (the Massachusetts Coalition of Water Resources, the City of Lowell, and the Town of Franklin, hereafter the ''Requestors'') submitted a letter asking EPA Region 1 to postpone the July 1, 2017 effective date for one year pending judicial review under section 705 of the APA.

II. Discussion

Upon consideration of the request, and for the reasons set forth below, EPA determined that justice requires postponement of the effective date.[2] Therefore, pursuant to APA section 705, EPA postponed the July 1, 2017 effective date for one year to July 1, 2018. EPA is providing notice of this postponement to the public, including all petitioners, all commenters, and all known potential permittees.

A. The Request

The Requestors' May 26 letter asked EPA to postpone the July 1, 2017 effective date of the Massachusetts permit in the ''interests of justice'' because, the Requestors asserted, (1) the permit represents a significant expansion of EPA's CWA authority and the court must decide, among other things, whether EPA acted within its bounds by requiring that discharges meet water quality standards in addition to meeting the Maximum Extent Practicable (''MEP'') standard; (2) it will align the Massachusetts permit's effective date with the effective date of the virtually identical New Hampshire small MS4 general permit, which was issued in January 2017, raises the same legal issues, and has also been challenged in the D.C. Circuit (as well as the 1st Circuit); and (3) although irreparable harm is not required for EPA to postpone the effective date under APA section 705, without it the towns will suffer irreparable harm by immediately expending resources that may ultimately prove to be unnecessary and wasted to avoid non-compliance and risk of enforcement.

B. Analysis

In postponing the effective date of the Massachusetts permit, EPA stated in its findings that justice requires postponing the July 1, 2017 effective date of the Massachusetts permit for one year pending judicial review. EPA would like to explore the use of alternative dispute resolution (ADR) in this case in order to engage with the various petitioners and jointly see if there might be a resolution that could avoid the need for litigation. EPA believes that it is fair to postpone the effective date of the permit so that eligible MS4s in Massachusetts that could seek coverage under the permit would not be subject to enforceable permit terms and conditions under the Massachusetts permit that could change as a result of ADR. Postponing the effective date for one year pending judicial review should give EPA ample time to determine what, if any, changes are appropriate in the permit and to determine next steps.

Pending any such decision by the Agency, postponing the effective date of the permit for one year will postpone certain obligations—and the associated costs—that would otherwise be incurred in the first year's implementation of the Massachusetts permit. Such costs would include monetary and staff time for preparation and submittal of a Notice of Intent (NOI) to be covered by the permit. Also in the first year, in the absence of the postponement of the permit's

[1] Although the Region issues NPDES permits in Massachusetts, the Commonwealth maintains separate permitting authority under Massachusetts law. *See* Mass. Gen. Laws ch. 21, § 43; Mass. Code Regs. tit. 314. When the Region issues an NPDES permit in Massachusetts, MassDEP typically jointly issues a permit under state law. *See In re City of Marlborough,* 12 E.A.D. 235, 236 n.3 (EAB 2005); *In re Westborough,* 10 E.A.D. 297, 300 n.2 (EAB 2002). EPA's action in postponing the effective date of the Massachusetts permit does not affect the requirements of the permit issued by MassDEP under Massachusetts law.

[2] The Region 1 Regional Administrator is authorized to act on behalf of EPA in this matter pursuant to 40 CFR 124.19(*l*), which grants regional administrators the authority to issue final NPDES permit decisions, which includes determining when a permit will take effect.

effective date, the MS4s would have to update portions of their existing Stormwater Management Plans. Given the status of the litigation, the possibility that the parties will engage in ADR and that the Agency may decide to make changes to the permit, the Agency believes it is reasonable to defer imposition of these obligations and costs for the period of the postponement.

Moreover, postponing the effective date by one year will have the benefit of matching the Massachusetts permit's effective date with the effective date of the New Hampshire small MS4 general permit, which EPA Region 1 issued on January 18, 2017 and will take effect on July 1, 2018. Various parties have filed petitions for review of the New Hampshire permit in the D.C. Circuit, as well as one petition in the U.S. Court of Appeals for the First Circuit. EPA is also interested in exploring the use of ADR in that case. EPA has filed a motion with the First Circuit to transfer the petition that was filed there to the D.C. Circuit so that all of the New Hampshire petitions may be consolidated. Aligning the effective dates could promote efficiency in the resolution of both cases by facilitating the development of a unified ADR process that would address those issues raised in both permit appeals.

C. Conclusion

Based on the above, EPA concluded that justice requires postponement of the effective date. Thus EPA postponed the July 1, 2017 effective date of the Massachusetts permit for one year to July 1, 2018.

Dated: June 30, 2017.

Ken Moraff,

Acting Deputy Regional Administrator, EPA Region 1.

[FR Doc. 2017–14731 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9964–00–Region 10]

Public Water Supply Supervision Program; Program Revision for the State of Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Alaska has revised its approved State Public Water Supply Supervision Primacy Program. Alaska has adopted regulations analogous to the Environmental Protection Agency's Revised Total Coliform Rule. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these State program revisions. By approving these rules, EPA does not intend to affect the rights of federally recognized Indian tribes within ''Indian country,'' nor does it intend to limit existing rights of the State of Alaska.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by August 14, 2017 to the Acting Regional Administrator at the EPA address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Acting Regional Administrator. However, if a substantial request for a public hearing is made by August 14, 2017, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Acting Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on August 14, 2017. Any request for a public hearing shall include the following information: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Acting Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the Alaska Department of Environmental Conservation, Drinking Water Program, 555 Cordova Street, Anchorage, Alaska 99501 and between the hours of 9:00 a.m.–12:00 p.m. and 1:00–4:00 p.m. at the EPA Region 10 Library, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the documents which explain the rule can also be obtained at EPA's Web site at: *https://www.federalregister.gov/articles/2013/02/13/2012-31205/national-primary-drinking-water-regulations-revisions-to-the-total-coliform-rule* and *https://www.federalregister.gov/articles/2014/02/26/2014-04173/national-primary-drinking-water-regulations-minor-corrections-to-the-revisions-to-the-total-coliform,* or by writing or calling Ricardi Duvil, PhD., at the address below.

FOR FURTHER INFORMATION CONTACT: Ricardi Duvil, Ph.D., EPA Region 10, Drinking Water Unit, 1200 Sixth Avenue, Suite 900, OWW–193, Seattle, Washington 98101, telephone (206) 553–2578, email at *duvil.ricardi@epa.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: June 12, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–14758 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9964–68–OEI]

Privacy Act of 1974; System of Records

AGENCY: Office of Environmental Information, Environmental Protection Agency (EPA).

ACTION: Notice of a Modified System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the Environmental Protection Agency (EPA) is giving notice that it is amending the system of record for the National Enforcement Training Institute (NETI) Online learning management system. The SORN is being amended to change the system name from NETI Online to the NETI eLearning Center and to change the system location from the Office of Criminal Enforcement to NETI in the Office of Compliance (the NETI division). The NETI eLearning Center is used by Federal, State, Local, and Tribal environmental enforcement and compliance personnel for online distance learning. The NETI eLearning Center maintains registration information of internal and external users and records of training attendance and completion.

DATES: Persons wishing to comment on this system of records notice must do so by August 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OE1–2015–0201, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@epa.gov.*

• *Fax:* 202–566–1752.

Hand Delivery: OEI Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEl-2015–0201. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at: *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC. WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Arthur Horowitz, Senior Program Analyst, EPA National Enforcement Training Institute, OECA, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Mail Code 2235A, 202–564–2612, or by email at *horowitz.arthur@epa.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency is giving notice that the NETI eLearning Center has replaced NETI Online, which was retired in January 2012, as the Learning Management System (LMS) for the Office of Compliance. The LMS is managed by the National Enforcement Training Institute in the Office of Compliance in OECA. The audience for the NETI eLearning Center is Federal, State, Local, and Tribal environmental enforcement and compliance personnel. The system maintains account registration information, which is password-protected. This account information includes the (1) email address; (2) first name; (3) last name; (4) name of organization (agency or company); (5) name of office or division; (6) state or territory; (7) type of organization represented; (8) employment status; and (9) primary media (*e.g.,* CAA, CWA, RCRA, etc.) program. The system offers online distance learning and training courses for EPA and state environmental inspectors and other eligible users. Recorded in the system are course: attendance, progress, completion and examination results.

Access to the records in this system is limited to NETI employees whose official duties require using the information. Electronic data is maintained in an electronic data system, which maintains all system records. Access to the system is password protected and managed by NETI personnel. The EPA contracts with a private contractor that manages the data system on its own Fed Ramp secure servers. Users can access their own training information using their username and password. The NETI eLearning Center is contractor operated and appropriate Federal Acquisition and Regulations clauses are included in the contract. The system is operated and maintained by the National Enforcement Training Institute (NETI) in the Office of Compliance.

SYSTEM NAME AND NUMBER:

NETI eLearning Center: EPA–47

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

All data is stored electronically in an Agency-approved electronic data system on Fed Ramp secure servers maintained by a private IT contractor to EPA. The server is located at a facility in San Jose, California.

SYSTEM MANAGERS:

Mike Walker, Director, National Enforcement Training Institute, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 1200 Pennsylvania Avenue NW., 20460, MC 2235A.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pollution Prosecution Act of 1990. 42 U.S.C. 4321.

PURPOSE(S) OF THE SYSTEM:

To manage environmental enforcement related training data.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal, state, local, and tribal personnel with NETI eLearning Center accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains student registrations and transcripts, course descriptions, course lists, course enrollees, course catalogs, and other related records.

RECORD SOURCE CATEGORIES:

Individual enrollees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, K and L apply to this system.

POLICES AND PRACTICES FOR STORAGE OF RECORDS:

All data is stored electronically in an electronic data system on servers maintained by a private contractor to EPA.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records stored in this system are subject to EPA's records schedule 571.

POLICIES AND PRACTICES FOR RETREIVAL OF RECORDS:

Files relating to course records are retrieved by individuals having a username and password. Users may access their course completion records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computer records are maintained in a secure, password-protected computer system.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their own personal information in this system of record can access it using a username and individually selected password.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought and should submit a written request to the Privacy Act Officer.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about themselves should submit a request to the Privacy Act Officer.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

66 FR 49947 (October, 2001)—OCEFT/NETI Training Registration and Administration Records. Establish a Privacy Act System of Records to manage environmental enforcement related training data.

Dated: May 30, 2017.

Steven Fine,

Acting Chief Information Officer.

[FR Doc. 2017–14749 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, July 13 2017

July 6, 2017.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 13, 2017 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, D.C.

Item No.	Bureau	Subject
1	Wireline Competition	*Title:* Call Authentication Trust Anchor (WC Docket No. 17–97). *Summary:* The Commission will consider a Notice of Inquiry that seeks comment on methods to authenticate telephone calls to further secure our telephone networks against illegal robocallers. The Notice seeks comment on implementing authentication standards for telephone calls, as well as the Commission's role in this process and other public policy considerations.
2	Consumer & Governmental Affairs	*Title:* Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59). *Summary:* The Commission will consider a Notice of Inquiry that explores methods by which reassigned telephone number data could be made available to callers to avoid making unwanted calls to consumers.
3	Consumer & Governmental Affairs	*Title:* Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges (CG Docket No. 17–169). *Summary:* The Commission will consider a Notice of Proposed Rulemaking outlining steps to further curtail slamming and cramming.
4	Wireline Competition	*Title:* Rural Call Completion (WC Docket No. 13–39). *Summary:* The Commission will consider a Second Further Notice of Proposed Rulemaking that proposes rule changes to better address ongoing problems in the completion of long-distance telephone calls to rural areas. The Second Further Notice of Proposed Rulemaking proposes to (1) adopt new rural call completion requirements for covered providers, and (2) eliminate the Commission's existing rural call completion recording, retention, and reporting rules.
5	Media	*Title:* Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (MB Docket No. 11–43). *Summary:* The Commission will consider a Report and Order which increases the required hours of video described programming that covered broadcast stations and MVPDs must provide to consumers.
6	Office of Engineering & Technology	*Title:* Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules regarding Authorization of Radiofrequency Equipment (ET Docket No. 15–170). *Summary:* The Commission will consider a First Report and Order that would update and amend its equipment authorization program by replacing two certification procedures with a new Supplier's Declaration of Conformity process, codifying procedures for the electronic labeling of devices, modernizing the requirements related to the importation of electronic equipment, and incorporating up-to-date methods for equipment compliance measurements into the rules.
7	Office of Engineering & Technology	*Title:* Amendment of Parts 1, 2, 15, 90 and 95 of the Commission's Rules to Permit Radar Services in the 76–81 GHz Band (ET Docket No. 15–26). *Summary:* The Commission will consider a Report and Order that would address use of the 76–81 GHz band under the Part 95 rules to support a broad range of vehicular radar uses, such as collision avoidance and adaptive cruise control systems, as well as to expand the types of fixed and mobile radar operations permitted within airport environments.
8	Office of Engineering & Technology and Wireless Telecommunications.	*Title:* Promoting Spectrum Access for Wireless Microphone Operations (GN Docket No. 14–166); Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Band, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, and Amendment of Part 74 of the Commission's Rules for Low Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap (ET Docket No. 14–165); Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12–268). *Summary:* The Commission will consider an Order on Reconsideration and Further Notice of Proposed Rulemaking that would address licensed and unlicensed wireless microphone operations in the TV bands and various other frequency bands.

Item No.	Bureau	Subject
9	Office of General Counsel	*Title:* Game Show Network, LLC, Complainant v. Cablevision Systems Corp., Defendant (MB Docket No. 12–122); File No. CSR–8529–P. *Summary:* The Commission will consider a Memorandum Opinion and Order that addresses Exceptions filed to an Initial Decision granting a program carriage complaint.
10	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–14713 Filed 7–12–17; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2017–04; Docket 2017–0002; Sequence No. 10]

Federal Management Regulation; Effective Federal Warehousing-Notification, Federal Warehousing and Storage of Assets

AGENCY: Office of Government-Wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of FMR Bulletin B–44, Federal warehousing and storage of assets.

SUMMARY: GSA's OGP is providing guidance on Federal warehousing and the storage of assets through FMR Bulletin B–44. FMR Bulletin B–44 summarizes the industry-leading perspectives obtained through the development of international standards. This Bulletin provides an overview of considerations for agencies as they plan for acquiring warehousing space and throughout the life-cycle of the warehouse.

In addition to addressing the warehouse facility itself, the FMR Bulletin B–44 discusses the contents of the warehouse, with the idea that if the contents can be reduced, the need for warehousing facilities can also be reduced concomitantly. FMR Bulletin B–44 and all FMR Bulletin may be accessed at *https://www.gsa.gov/fmrbulletins.*

DATES: *Effective:* July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Holcombe, Director, Personal Property Policy Division, Office of Asset and Transportation, OGP, at 202–501–3828, or *robert.holcombe@gsa.gov.* For further information of Real Property policy, please contact Aluanda Drain, Director, Real Property Policy Division, Office of Asset and Transportation, OGP, at 202–501–1624, or *aluanda.drain@gsa.gov.*

SUPPLEMENTARY INFORMATION: The General Accountability Office (GAO) Report 15–41, *Federal Real Property; Strategic Focus Needed to Help Manage Vast and Diverse Warehouse Portfolio,* published in November 2014, recommends GSA provide guidance and best practices to make its collective Federal warehousing activities more efficient. GSA and other Federal agencies participated in the development of two international ASTM (previously known as the American Society for Testing and Materials) standards addressing warehousing assets to gain widespread input and visibility to provide the best guidance possible.

OMB Circular A–119, *Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,* published in January 27, 2016, requires agencies to follow collaboratively-developed Voluntary Consensus Standards (such as those produced by ASTM) in lieu of Government-unique or Government-promulgated standards, except in limited situations, such as where a specific standard or process is required by law.

GSA notes that these ASTM standards are protected by copyright, and cannot be shared with this Bulletin. This protection of intellectual property is addressed within Circular A–119 as a necessary part of developing such consensus standards. Each agency has a Standards Executive who can coordinate the provision of needed standards within the agency.

Dated: July 5, 2017.

Allison Brigati,

Associate Administrator, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2017–14736 Filed 7–12–17; 8:45 am]

BILLING CODE 6820–14–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 107132017–1111–15]

RESTORE Act—Draft 2017 Funded Priorities List: Comprehensive Commitment and Planning Support

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf States Act (RESTORE Act or Act), the Gulf Coast Ecosystem Restoration Council (Council) announces the availability of the Draft 2017 Funded Priorities List: Comprehensive Commitment and Planning Support (draft CPS FPL). In the draft CPS FPL, the Council proposes to provide its members with funding to enhance collaboration, coordination, public engagement and use of best available science needed to make efficient use of

Gulf restoration funds resulting from the *Deepwater Horizon* oil spill. These awards will support the Council's commitment to a coordinated approach to ecosystem restoration, as called for in the Comprehensive Plan Update 2016: Restoring the Gulf Coast's Ecosystem and Economy. The draft CPS FPL is now available for public and Tribal review and comment at *www.restorethegulf.gov.*

DATES: To ensure consideration, we must receive your written comments on the draft CPS FPL by 11:59 p.m. MT August 14, 2017.

Two informational webinars will be conducted:

- July 13, 2017 at 6:00 p.m. Central Time *https://register.gotowebinar.com/register/8691294554732234497.*
- July 25, 2017 at 2:00 p.m. Central Time *https://register.gotowebinar.com/register/6303399390784342017.*

You may register for these webinars in advance. Once registered, a link to access the webinar will be sent to the email address provided during registration.

ADDRESSES: You may submit comments on the draft CPS FPL by one of the following methods:

- *Electronic Web site Submission:* Through the following Web site: *www.restorethegulf.gov.*
- *Email:* Submit electronic public comments by email to: *frcomments@restorethegulf.gov.*
- *Mail/Commercial Delivery:* You may also mail comments to: Gulf Coast Ecosystem Restoration Council, Attention: Draft FPL Comments, Hale Boggs Federal Building, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *RestoreCouncil@restorethegulf.gov,* or contact Keala J. Hughes at (504) 717–7235.

SUPPLEMENTARY INFORMATION:

Draft 2017 Funded Priorities List: Comprehensive Plan Commitment and Planning Support

The Gulf Coast Ecosystem Restoration Council's (Council) 2016 Comprehensive Plan commits to enhancing collaboration, coordination, public engagement and the use of best available science to support a holistic approach to Gulf of Mexico restoration. This approach reflects the interconnected nature of coastal and marine ecosystems and the importance of addressing system-wide stressors to improve ecosystem function. To that end, the Comprehensive Plan sets forth a vision to guide the Council's future actions:

A Healthy and Productive Gulf Ecosystem Achieved Through Collaboration on Strategic Restoration Projects and Programs

The Council is proposing to provide limited funding over five years to its members to support the aforementioned Comprehensive Plan commitments and identify the future investments that maximize achievement of Gulf-wide restoration goals. The Council is also proposing to review the effectiveness of this funding at year four and consider whether extending planning and commitment support efforts beyond the five-year period is needed to continue to meet the Comprehensive Plan commitments.

The Council refers to this proposal as Comprehensive Plan Commitment and Planning Support (CPS). Pursuant to the RESTORE Act (33 U.S.C. 1321(t)(2)(D)(ii)(V)(bb)), in order to disburse Council-Selected Restoration Component funding to Council members, such funding must first be approved through a Funded Priorities List (FPL). Therefore, the CPS funding is being proposed as a draft 2017 FPL. This FPL development process enables the Council to solicit critical input from key stakeholders and the general public prior to making final decisions regarding CPS funding.

Background and Rationale

The fines and penalties arising from the Deepwater Horizon oil spill represent a once-in-a-lifetime opportunity for large-scale restoration in the Gulf of Mexico. Restoration funding in connection with the Deepwater Horizon oil spill is administered through a variety of programs, each governed by different laws and/or procedures. These programs include the five Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (33 U.S.C. 1321(t) and note) components, Deepwater Horizon Natural Resource Damage Assessment (NRDA), the National Fish and Wildlife Foundation's (NFWF) Gulf Environmental Benefit Fund (GEBF) and other funding sources.

A major challenge to Gulf-wide ecosystem restoration is coordinating efforts within each state, among Council members, among stakeholders within the Gulf region, and across funding streams. Adding to the challenge is the fact that no designated funding stream exists to support Council Member efforts to plan and coordinate restoration activities under the Council-Selected Restoration Component. Historically, Council members have had to rely upon general, tax-generated or appropriated funds to support their involvement in Council-Selected Restoration Component, including FPL development and the Comprehensive Plan update. The funds proposed to be approved in this draft FPL would provide Council members with funding from the Deepwater Horizon oil spill settlement. By supporting collaboration and leveraging among these programs, the Council will be able to produce the greatest on-the-ground restoration results possible.

To effectively and efficiently address the commitments of the Comprehensive Plan, the Council proposes to provide funds necessary for members to:

- Strengthen ecosystem restoration proposals for future FPL(s) under the Council-Selected Restoration component of the RESTORE Act.
  - These funds will allow for the collaborative development of large-scale project and/or program submissions for potential funding through future FPL(s) to advance watershed/estuary-based efforts that were initiated in the Council's Initial FPL.
- Enhance the efficiency of future FPL development processes.
  - Investing in these CPS activities will provide for more thorough development of information on future FPL project/program proposals through the collaborative process.
  - Included in this information could be any necessary pre-submission consultations on best available science and environmental compliance.
  - Collectively, this information may result in potentially faster evaluation and funding of future FPLs.
- Facilitate long-term planning and leveraging efforts across funding streams.
  - Because funds from the *Deepwater Horizon* oil spill will come in annual installments over the next 15 years,

investing in collaborative planning will help the Council develop a 10-year funding strategy based upon the anticipated BP payment schedule.

○ This strategy will include identifying opportunities to leverage across funding streams, as opposed to spending each annual payment on relatively small and possibly disconnected projects.

The Council believes that investing a relatively small amount of time and resources in planning can ensure that restoration projects selected for funding will yield greater ecosystem benefits in the future.

Ensuring Fiscal Responsibility

If approved, the Council intends to incentivize cost savings and efficiency in the CPS effort. Accordingly, if a member does not utilize its full allocation of CPS funding then, subject to Council approval in accordance with the RESTORE Act and all other applicable laws, the Council will take such savings into account when considering that member's proposals for future restoration funding opportunities. In other words, savings in the proposed CPS funds could be used to support specific restoration projects and programs sponsored by the Council member that achieves the savings.

Commitment and Planning Support Activities

The CPS funding will provide the necessary resources for Council members to stimulate and encourage the coordination and collaboration necessary to achieve the commitments of the Comprehensive Plan. By working closely within the Council, and among our restoration partners and the public, the Council believes it can make significant progress towards comprehensive Gulf restoration and provide substantial environmental and economic benefits to current and future generations. For example, the Council anticipates that the proposed CPS funds will be used to collaborate with the *Deepwater Horizon* NRDA Trustees, NFWF's GEBF and/or other relevant funding programs. Specifically, the CPS funds would cover individual Council Members' costs associated with:

- Evaluating the efficacy of using multiple funding streams to fund a single large-scale restoration and/or conservation project/program beyond what could be achieved through a single funding source.
- Developing project and program concepts that may be pursued for funding in future FPL(s), thereby potentially accelerating implementation of those selected for funding. Note that CPS funds may not be used to advance specific projects and programs beyond what is needed for submission for possible FPL approval.
- Harmonizing projects and programs within a defined geographic area, including a watershed/estuary system, that are temporally and spatially aligned with ecosystem function.

Activities supported by the proposed CPS funding would include the planning, coordination, collaboration, and pre-submission environmental compliance review [1] that will enable Council members to more effectively:

- Meet the requirements of the RESTORE Act Council-Selected Restoration Component;
- Meet the commitments of the Comprehensive Plan Update (see Appendix A); and
- Address associated planning needs for developing future FPLs.

Allowable Activities

Specifically, categories of activities proposed to be allowed under this CPS FPL would include:

- Planning and collaboration to develop submissions and/or conceptual, pre-submission options for the next FPL. Planning activities must be reasonable and directly related to the Council-Selected Restoration Component FPL development, and could include:

○ Planning and collaboration with other Council members for joint/coordinated proposal submissions;

○ Intra- and inter-state planning with multiple state and/or federal agencies and partners to develop proposals including those requiring multiple partner contributions (*e.g.,* with federal partners to do a project in a state);

○ Intra-member planning to develop proposals including those requiring multiple agency contributions (state and federal);

○ Technical meetings/focus groups (*e.g.,* with other regional efforts such as but not limited to National Estuary Programs; National Estuarine Research Reserve System; National Academies of Sciences, environmentally-focused NGOs, Gulf Research Program; Council Monitoring and Assessment Workgroup; etc.);

○ Public engagement activities for the purposes of developing FPL submissions (*e.g.,* directed stakeholder engagement, public meetings and workshops) to cover expenses such as venues, invited facilitators, speakers, translators, etc.; [2]

○ Process-related activities to support development of project/program options (*e.g.,* developing decision support structures at various levels (*e.g.,* projects, programs, watersheds), preparing materials for collaboration activities, reviewing and addressing public comments on future FPLs);

○ Project scoping, pre-submission environmental compliance review/coordination and engagement, and technical assistance for potential future FPL projects (including Council workgroups); and

○ Collaboration and coordination among Council, NRDA, NFWF, as well as entities identified in the RESTORE Act with roles in the Spill Impact Component to support development of restoration priorities and/or development of jointly funded/implemented projects and programs.

- Staffing in support of planning, collaboration, pre-submission environmental compliance coordination, and meeting other commitments from the Comprehensive Plan;
- Preparation of proposals in accordance with FPL submission guidelines, including entry of proposals into the Council's Restoration Assistance and Award Management System (RAAMS);
- Evaluation activities to determine the impact of the Council's projects/programs and inform adaptive management for future funding decisions. Activities should complement work undertaken through the Council Monitoring and Assessment Program, and could include:

○ Near-term design of an evaluation structure and process,

○ Periodic evaluations of overall Bucket 2 project/program impact at multiple scales, and

○ Development of recommendations for adaptive management.

- Financial support for outreach mechanisms (printing, Web site maintenance, and other similar activities);
- Travel expenses that are reasonable and directly related to the Council-Selected Restoration Component projects/programs development, including:

○ Steering Committee/Council meetings;

[1] CPS funds do not cover preparation of environmental compliance documentation (*e.g.,* NEPA documentation) or permit application costs. Such activities are only funded after the given project or program is approved in an FPL, and after a separate grant or Interagency Agreement is awarded.

[2] The public may include a wide and diverse array of stakeholders, such as Tribes, federal, state and local governments, private businesses, academic and non-governmental organizations (NGOs), and the general public.

○ Meetings with individual Council member agencies and other potential partners to develop project concepts;
○ Meetings to support project/program planning and collaboration;
○ Participation in Council workgroups and FPL project-specific workgroups and committees;
○ Participation in training, conferences, and workshops to facilitate general collaboration among restoration practitioners and scientists and maximize use of existing expertise; and
○ Site visits to support development of reasonably viable projects/program submissions for potential FPL funding.

• Preparation and execution of Interagency Agreements, grants, and other related items required by the Council prior to implementing the scope of work covered by project-specific interagency project-specific activities. These CPS funds would not be able to be used to conduct post-award, project-specific activities. Those costs would be borne by the project itself.
• The allowable uses of CPS funding would *not* include engineering and design and environmental compliance activities beyond the pre-submission stage (see footnote 1, above).

With these funds, Council members would have the necessary resources to enable stronger support of collaboration activities, including:

• Collaborating on various scales, including:
○ Watershed-scale to sequence projects in alignment with ecosystem function, including evaluation of applicability of various *Deepwater Horizon* and other funding streams to maximize the effectiveness of conservation efforts;
○ A state-scale and/or landscape-scale geographic area; and
○ Region-wide-scale for restoration planning focused on a specific resource (*e.g.,* oysters, birds) or strategy (*e.g.,* living shorelines).
• Providing opportunities to facilitate the formation of strategic partnerships and collaboration on innovative ecosystem restoration projects, programs, and approaches, including:
○ Public engagement opportunities that reflect the richness and diversity of Gulf Coast communities to ensure ongoing public participation in the Council's restoration efforts;
○ Focused resource and/or geographic-specific discussions with stakeholders and technical experts; and
○ Advancing the ability to achieve, assess, and report on watershed or regional outcomes (*i.e.,* measures, developing indicators to meet Council goals and objectives)

Reporting Elements

Council members utilizing CPS funds under this FPL will provide information on the progress of their respective efforts. The primary focus of reporting is to encourage further collaboration and share best practices/lessons learned. To that end, the following reporting elements of the CPS funding awards would include:

• Semi-Annual Financial and Expenditure written reports, and annual progress summaries, submitted through the Council's RAAMS in adherence to federal financial assistance requirements (2 CFR part 200). The annual progress summaries should include, as appropriate:
○ Collaboration activities and partners,
○ Stakeholders and public engagement workshops/meetings held,
○ FPL-related Planning,
○ Lessons learned, and
○ Potential project/program concepts, which may include such details as:
▪ Watershed, estuary or other geographic areas; and
▪ Council Goal(s) and Objective(s) addressed
• Work with Council Staff to populate and regularly update project/program concepts information in the internal online project/program mapping tool. The purpose is to facilitate pre-submission collaboration between members who may have preliminary interests in similar projects or programs.

CPS activities will also be periodically discussed in Steering Committee meetings to foster additional collaboration and share lessons learned. During these meetings, Council members are encouraged to highlight progress and accomplishments related to this work.

Proposed Funding Amount

The Council proposes to allow each of the 11 Council members to apply for up to $500,000 per year for up to 3 years and up to $300,000 per year for 2 years thereafter, resulting in a total of up to $23.1 million, or 1.44% of the total funds available (not including interest) in the Council-Selected Restoration Component supporting these activities, as detailed in Table 1 (below).

TABLE 1—FUNDING FOR THE COMMITMENTS AND PLANNING SUPPORT ACTIVITIES

Annual per member (maximum)	Annual total council cap	Total 5-year investment maximum based on annual cap ($M)	Percentage of total Bucket 2 funds
$500K for 3 Years $300k for 2 Years	$5.5M/year for 3 years $3.3M/year for 2 years.	23.1	*1.44

*The 1.44% is calculated based upon total funds provided by BP and other responsible parties; it does not include interest. Therefore, the percentage will be less over time as interest is accrued.

The Council also proposes to review the effectiveness of this funding at year four and consider the need to continue the CPS beyond the five-year period. Based upon this evaluation, the Council will determine whether there is a need to undertake follow-on awards to continue this work. The timing of this review during year four is intended to avoid a lapse in funding. If the need for CPS funding extends beyond 5 years, future awards would use the same FPL amendment process requiring public notice and a formal Council vote.

Summary

The Council has a key role in helping to ensure that the Gulf's natural resources are sustainable and available for future generations. The Gulf restoration funds available now and in the future, represent an incredible opportunity and responsibility for the Council and all the stakeholders in the Gulf Coast region.

In the coming months and years, the Council will focus its efforts on collaboration—among and between members and with other restoration partners—to fully leverage available funds. Through such focused collaboration, the Council can facilitate holistic, large-scale, and coordinated restoration. The CPS funding proposed

in this draft FPL is intended to enable the Council to most effectively meet these fundamental commitments. The Council looks forward to hearing from the public on this proposal.

APPENDIX A—COUNCIL COMPREHENSIVE PLAN COMMITMENTS

Topic	Commitment	Page No.
Development of Funded Priority Lists.	Take a holistic approach to restoration	13, 14
	Continue to improve Submission Guidelines	17
	The Council adopted the watershed/estuary-based approach as a strategic planning principle for future FPL development.	22
	Healthy and sustainable ecosystems are essential for thriving and resilient coastal communities.	23
	Encourage partnerships and additional public and private financial and technical support to maximize outcomes and impacts.	23
	Identify and leverage new sources of funding to support current and future restoration work by exploring creative conservation funding.	25
	The Council will refine its processes for considering public input on draft FPLs before finalizing changes to the final FPL.	25
	Project evaluation and selection will be conducted in the most open manner feasible	25
	Will update and improve the process for applying BAS to FPL proposals, including exploring the use of one or more science review panels.	27
Collaboration and Coordination	Sponsor and participate in meetings and workshops in 2017 and into 2018	17
	Facilitate meaningful engagement with range of stakeholders	17
	Maximize outcomes by leveraging funds and expertise	17
	Coordination and collaboration among members and our restoration partners is critical to the success of Gulf restoration.	24
	Coordinate regulatory efforts across Council membership	26
Science	Decisions made pursuant to the FPL will be based on the best available science	6, 17, 27
	The Council recognizes the importance of measuring outcomes and impacts in order to achieve tangible results and ensure that funds are invested in a meaningful way.	27

Document Availability: Copies of the draft CPS FPL are available at the following office during regular business hours: Gulf Coast Ecosystem Restoration Council, Hale Boggs Federal Building, 500 Poydras Street, Suite 1117, New Orleans, LA 70130. The draft CPS FPL can also be viewed and downloaded at *www.restorethegulf.gov.*

Legal Authority: The statutory program authority for the draft FPL is found at 33 U.S.C. 1321(t)(2).

Will D. Spoon,

Program Analyst, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2017–14690 Filed 7–12–17; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved information collection project: ''*Developing a Registry of Registries.*''

In accordance with the Paperwork Reduction Act, AHRQ invites the public to comment on this proposed information collection. This proposed information collection was previously published in the **Federal Register** on April 28, 2017, and allowed 60 days for public comment. AHRQ did not receive any substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by August 14, 2017.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Revision of a Currently Approved Collection Project: ''Developing a Registry of Registries.''

OMB Control Number: 0935–0203.

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ is extending the comment period for this this proposed information collection on the development of a registry of patient registries. Patient registries have received significant attention and funding in recent years. Similar to controlled studies, patient registries represent some burden to patients (*e.g.,* time to complete patient reported outcome measures, risk of loss of privacy), who often participate voluntarily in hopes of improving knowledge about a disease or condition. Patient registries also represent a substantial investment of health research resources. Despite these factors, patient registries are not required to be registered in *ClinicalTrials.gov*, presenting the potential for duplication of efforts and insufficient dissemination of findings that are not published in the peer-reviewed literature. To fulfill the obligation to patients and to ensure that resources are used in the most efficient manner, registries need to be listed in a manner similar to that of trials in *ClinicalTrials.gov.*

By providing a centralized point of collection for information about all patient registries in the United States, the Registry of Patient Registries (RoPR) enhances patient registry information, extracted from *ClinicalTrials.gov*, building on AHRQ's efforts to describe the quality, appropriateness, and effectiveness of health services (and

patient registries in particular) in a more readily available, central location.

The RoPR database system aims to achieve the following objectives:

(1) Provide a searchable database of patient registries in the United States (to promote collaboration, reduce redundancy, and improve transparency);

(2) Facilitate the use of common data fields and definitions in similar health conditions (to improve opportunities for sharing, comparing, and linkage);

(3) Provide a public repository of searchable summary results (including results from registries that have not yet been published in the peer-reviewed literature);

(4) Offer a search tool to locate existing data that researchers can request for use in new studies; and

(5) Serve as a recruitment tool for researchers and patients interested in participating in patient registries.

To achieve the objectives of this project, the following data collections will be implemented:

(1) Collect information on registries from users who populate the RoPR database system.

AHRQ is proposing to add a self-registration option to the RoPR database so that registry owners do not need a National Library of Medicine Protocol Registration System (PRS) account to contribute. The current OMB-approved RoPR system requires users to have a PRS account. In the current data entry process, registry owners enter most of the registry information using the *ClinicalTrials.gov* PRS. If a user defines the *ClinicalTrials.gov* record as a patient registry, that user will have the option of following a link to the RoPR submission page to input additional information about the registry. Patient registry data entered in the PRS is uploaded to the RoPR system daily and is accessible (along with information entered directly into RoPR) to the public via the RoPR search function. Under the AHRQ proposal, these users could complete a simple registration on the RoPR site, which would be less burdensome than the PRS registration process, and then enter all registry information directly on RoPR. The rationale behind this alternative registration pathway is that many registries are created for quality reporting, outcome tracking, and quality improvement purposes, rather than for research purposes. Registering in *ClinicalTrials.gov* implies a research purpose, so it is not necessarily appropriate for non-research registries to register in *ClinicalTrials.gov,* and many have expressed that they do not wish to do so. AHRQ anticipates that more than 75 percent of registries would still register through the *ClinicalTrials.com*. However, the remaining registries are extremely important for health policy, and providing them with a registration pathway furthers the goal of creating a central place where stakeholders can find information on research and non-research registries pertinent to a specific clinical topic.

The new self-registration pathway is being developed by AHRQ through its contractor, L&M Policy Research and subcontractor Truven Health Analytics, an IBM Company, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to database development. 42 U.S.C. 299a(a)(1) and (8).

AHRQ, in collaboration with the Centers for Medicare & Medicaid Services (CMS), is also proposing to add three fields to the self-registration pathway related to the CMS initiative to create a Centralized Repository for Public Health Agencies and Clinical Data Registry Reporting. The purpose of the repository is to assist eligible professionals, eligible hospitals, and critical access hospitals in finding entities that accept electronic public health data. By adding these fields to the existing RoPR database, AHRQ will further the goal of creating a central place where stakeholders can find all pertinent information on registries.

Method of Collection

The purpose and the use of the RoPR is to provide a readily available public resource strictly for patient registries, following the model of *ClinicalTrials.gov*, allowing for the increased availability and efficacy of patient registries. The information being collected in the RoPR Record is visible to the public visiting the RoPR Web site, and is readily available for public use.

The RoPR is an ongoing data collection initiative.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in the RoPR. In 2016, 65 respondents manually entered a new RoPR record. It is expected that more than 75% of patient registries are research-focused and will continue to use the original *ClinicalTrials.gov* pathway described above. Thus, it is estimated that once the self-registration pathway is available, approximately 65 respondents will enter RoPR records through the *ClinicalTrials.gov* link annually, and an additional 16 respondents (roughly 25% of 65), representing non-research registries, will enter RoPR records through the new self-registration pathway.

Each respondent would to need enter his or her new RoPR record only once. The RoPR system sends an automated reminder to any registry owner who has not updated his or her RoPR record in the past year. In 2016, 132 RoPR entries were updated and released. Using the same logic as above, it is estimated that an additional 33 entries (25% of 132) might be updated annually once the self-registration pathway is available.

In January 2017, Truven Health Analytics used a sample of existing *ClinicalTrials.gov* registry entries to estimate the time needed to enter all additional fields added through the self-registration process. The sample included records representing a range of depth and complexity. For example, one registry record contained only one primary outcome measure. Another record contained three more detailed outcome measures (one primary, one secondary, and one other.)

As a result of the knowledge gained during these processes, it is estimated that it will take users 10 minutes, on average, to manually enter the additional fields added through the self-registration process. Adding this time to the estimated burden of completing the original RoPR fields (45 minutes), it is estimated that it will take users 55 minutes to complete all fields through the self-registration pathway.

It is estimated that it will take users 5 minutes to review and update the fields added through the self-registration pathway. Adding this time to the estimated burden of reviewing and updating the original RoPR fields (15 minutes), it is estimated that it will take 20 minutes for a person to review and make updates to an existing RoPR record created through the self-registration pathway.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Minutes per response	Total burden hours
New RoPR Record entered manually through self-registration process	16	1	55/60	14.67
New RoPR Record entered through *ClinicalTrials.gov* pathway	65	1	45/60	48.75
Review/update existing RoPR Record created through self-registration process	33	1	20/60	11
Review/update existing RoPR Record created through *ClinicalTrials.gov* pathway	132	1	15/60	33
Total	246			107.42

Exhibit 2 shows the estimated cost burden associated with the respondent's time to participate in the RoPR. The total cost burden to respondents is estimated at an average of $4,017.51 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate †	Total cost burden
New RoPR Record entered manually through self-registration process	16	14.67	$37.40	$548.66
New RoPR Record entered through *ClinicalTrials.gov* pathway	65	48.75	37.40	1,823.25
Review/update existing RoPR Record created through self-registration process	33	11	37.40	411.40
Review/update existing RoPR Record created through ClinicalTrials.gov pathway	132	33	37.40	1,234.20
Total	246	107.42	37.40	4,017.51

† Based on the mean wages for Healthcare Practitioners and Technical Occupations, 29–0000. National Compensation Survey: Occupational wages in the United States May 2015, ''U.S. Department of Labor, Bureau of Labor Statistics.'' Available at: *https://www.bls.gov/oes/current/oes290000.htm.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–14703 Filed 7–12–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Stroke Prevention in Atrial Fibrillation Patients: A Systematic Review Update

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of *Stroke Prevention in Atrial Fibrillation Patients: A Systematic Review Update,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: Submission Deadline on or before August 14, 2017.

ADDRESSES:

Email submissions: SEADS@epc-src.org.

Print submissions:

Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 51723 or Email: *SEADS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Stroke Prevention in Atrial Fibrillation Patients: A Systematic Review Update.* AHRQ is conducting

this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Stroke Prevention in Atrial Fibrillation Patients: A Systematic Review Update,* including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *https://effectivehealthcare.ahrq.gov/index.cfm/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productid=2481.*

This is to notify the public that the EPC Program would find the following information on *Stroke Prevention in Atrial Fibrillation Patients: A Systematic Review Update* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

The Key Questions

I. In patients with nonvalvular atrial fibrillation, what are the comparative diagnostic accuracy and impact on clinical decision-making (diagnostic thinking, therapeutic and patient outcome efficacy) of available clinical and imaging tools and associated risk factors for predicting thromboembolic risk?

II. In patients with nonvalvular atrial fibrillation, what are the comparative diagnostic accuracy and impact on clinical decision-making (diagnostic thinking, therapeutic, and patient outcome efficacy) of clinical tools and associated risk factors for predicting bleeding events?

III. What are the comparative safety and effectiveness of specific anticoagulation therapies, antiplatelet therapies, and procedural interventions for preventing thromboembolic events:
- A. In patients with nonvalvular atrial fibrillation?
- B. In specific subpopulations of patients with nonvalvular atrial fibrillation?

Contextual Question

What are currently available shared decision-making tools for patient and provider use for stroke prophylaxis in atrial fibrillation, and what are their relative strengths and weaknesses?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, Settings)

Populations

Inclusion

I. Humans

II. Adults (age ≥18 years of age)

III. Patients with nonvalvular AF (including atrial flutter):
- A. Paroxysmal AF (recurrent episodes that self-terminate in less than 7 days)
- B. Persistent AF (recurrent episodes that last more than 7 days until stopped)
- C. Permanent AF (continuous)
- D. Patients with AF who experience acute coronary syndrome

IV. Subgroups of interest for KQ3 include (but are not limited to):
- A. Age
- B. Sex
- C. Race/ethnicity
- D. Presence of heart disease
- E. Type of AF
- F. Comorbid conditions (such as moderate to severe chronic kidney disease (eGFR <60), dementia)
- G. When in therapeutic range
- H. When non-adherent to medication
- I. Previous thromboembolic event
- J. Previous bleed
- K. Pregnant

Exclusion

Patients who have known reversible causes of AF (including but not limited to postoperative, hyperthyroidism).

All subjects are <18 years of age, or some subjects are under <18 years of age but results are not broken down by age.

Intervention

Inclusion

KQ 1: Clinical and imaging tools and associated risk factors for assessment/evaluation of thromboembolic risk:

I. Clinical tools include:
- A. CHADS2 score
- B. CHADS2–VASc score
- C. Framingham risk score
- D. ABC stroke risk score

II. Individual risk factors include:
- A. INR level
- B. Duration and frequency of AF
- C. Age
- D. Prior stroke
- E. Type of AF
- F. Cognitive impairment
- G. Falls risk
- H. Presence of heart disease
- I. Presence and severity of CKD
- J. DM
- K. Sex
- L. Race/ethnicity
- M. Cancer
- N. HIV

III. Imaging tools include:
- A. Transthoracic echo (TTE)
- B. Transesophageal echo (TEE)
- C. CT scans
- D. Cardiac MRIs

KQ 2: Clinical tools and individual risk factors for assessment/evaluation of intracranial hemorrhage bleeding risk:

I. Clinical tools include:
A. HAS–BLED score
B. HEMORR2HAGES score
C. ATRIA score
D. Bleeding Risk Index
E. ABC Bleeding Risk score
II. Individual risk factors include:
A. INR level
B. Duration and frequency of AF
C. Age
D. Prior stroke
E. Type of AF
F. Cognitive impairment
G. Falls risk
H. Presence of heart disease
I. Presence and severity of CKD
J. DM
K. Sex
L. Race/ethnicity
M. Cancer
N. HIV

KQ 3: Anticoagulation, antiplatelet, and procedural interventions:

I. Anticoagulation therapies:
A. VKAs: Warfarin
B. Newer anticoagulants (direct oral anticoagulants [DOACs])
i. Direct thrombin Inh-DTI: Dabigatran
ii. Factor Xa inhibitors:
a. Rivaroxaban
b. Apixaban
c. Edoxaban
II. Antiplatelet therapies:
A. Clopidogrel
B. Aspirin
C. Dipyridamole
D. Combinations of antiplatelets
i. Aspirin+dipyridamole
III. Procedures:
A. Surgeries (*e.g.,* left atrial appendage occlusion, resection/removal)
B. Minimally invasive (*e.g.,* Atriclip, LARIAT)
C. Transcatheter (WATCHMAN, AMPLATZER, PLAATO)

Exclusion

None.

Comparator

Inclusion

KQ 1: Other clinical or imaging tools listed for assessing thromboembolic risk.

KQ 2: Other clinical tools listed for assessing bleeding risk.

KQ 3: Other anticoagulation therapies, antiplatelet therapies, or procedural interventions for preventing thromboembolic events.

Exclusion

For KQ 3, studies that did not include an active comparator.

Outcomes

Inclusion

I. Assessment of clinical and imaging tool efficacy for predicting thromboembolic risk and bleeding events (KQ1 and 2):
A. Diagnostic accuracy efficacy
B. Diagnostic thinking efficacy (defined as how using diagnostic technologies help or confirm the diagnosis of the referring provider)
C. Therapeutic efficacy (defined as how the intended treatment plan compares with the actual treatment pursued before and after the diagnostic examination)
D. Patient outcome efficacy (defined as the change in patient outcomes as a result of the diagnostic examination)

Patient-centered outcomes for KQ3 (and for KQ1 [thromboembolic outcomes] and KQ2 [bleeding outcomes] under ''Patient outcome efficacy''):

II. Thromboembolic outcomes:
A. Cerebrovascular infarction
B. TIA
C. Systemic embolism (excludes PE and DVT)
III. Bleeding outcomes:
A. Hemorrhagic stroke
B. Intracerebral hemorrhage
C. Extracranial hemorrhage
D. Major bleed (stratified by type and location)
E. Minor bleed stratified by type and location)
IV. Other clinical outcomes:
A. Mortality
i. All-cause mortality
ii. Cardiovascular mortality
B. Myocardial infarction
C. Infection
D. Heart block
E. Esophageal fistula
F. Cardiac tamponade
G. Dyspepsia
H. Health-related quality of life
I. Functional capacity
J. Health services utilization (*e.g.,* hospital admissions, outpatient office visits, ER visits, prescription drug use)
K. Long-term adherence to therapy
L. Cognitive function

Exclusion

Study does not include any outcomes of interest.

Timing

Inclusion

Timing of follow-up not limited.

Exclusion

None.

Settings

Inclusion

Inpatient and outpatient.

Exclusion

None.

Study design

Inclusion

I. Original peer-reviewed data
II. N ≥20 patients
III. RCTs, prospective and retrospective observational studies

Exclusion

Not a clinical study (*e.g.,* editorial, nonsystematic review, letter to the editor, case series, case reports).

Abstract-only or poster publications; articles that have been retracted or withdrawn.

Because studies with fewer than 20 subjects are often pilot studies or studies of lower quality, we will exclude them from our review.

Systematic reviews, meta-analyses, or methods articles (used for background and component references only).

Language

Inclusion

I. English-language publications
II. Published on or after August 1, 2011

Exclusion

Non-English-language publications.

Relevant systematic reviews, meta-analyses, or methods articles (will be used for background only).

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–14701 Filed 7–12–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From the Catholic Health Initiatives Patient Safety Organization, LLC

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from the

Catholic Health Initiatives Patient Safety Organization, LLC of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on June 15, 2017.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Room 06N94B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, establish a framework by which hospitals, doctors, and other health care providers may voluntarily report information to Patient Safety Organizations (PSOs), on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from the Catholic Health Initiatives Patient Safety Organization, LLC, a component entity of the Catholic Health Initiatives, PSO number P0162, to voluntarily relinquish its status as a PSO. Accordingly, the Catholic Health Initiatives Patient Safety Organization, LLC was delisted effective at 12:00 Midnight ET (2400) on June 15, 2017.

The Catholic Health Initiatives Patient Safety Organization, LLC has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.ahrq.gov.*

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2017–14702 Filed 7–12–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of charter amendment.

SUMMARY: The Department of Health and Human Services is hereby giving notice that the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD) has been amended. The effective date of the renewed charter is May 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kennita R. Carter, M.D., Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, in one of three ways: (1) Send a request to the following address: Kennita R. Carter, M.D., Designated Federal Official, Division of Medicine and Dentistry, HRSA, 5600 Fishers Lane, 15N–116, Rockville, Maryland 20857; (2) call 301–945–3505; or (3) send an email to *KCarter@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The Committee provides advice and recommendations on policy and program development to the Secretary of the Department of Health and Human Services (Secretary) concerning the medicine and dentistry activities under section 747 of the Public Health Services (PHS) Act, as it existed upon the enactment of Section 749 of the PHS Act in 1998. The Committee is responsible for preparing and submitting an annual report to the Secretary and Congress describing the activities of the Committee, including findings and recommendations made by the Committee.

Amendment of the ACTPCMD charter clarifies the authorization and duties of the Committee regarding medicine and dentistry as it operates and conducts its business.

A copy of the ACTPCMD charter is available on the ACTPCMD Web site at *https://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html.* A copy of the charter is also available on the Federal Advisory Committee Act (FACA) database that is maintained by the Committee Management Secretariat under the General Services Administration. The Web site for the FACA database is *http://www.facadatabase.gov/.*

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–14648 Filed 7–12–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special

Emphasis Panel; NIAID Clinical Trial Implementation Cooperative Agreement (U01).

Date: August 2, 2017.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Audrey O. Lau, MPH, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 240–669–2081.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 7, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–14641 Filed 7–12–17; 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; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Neurosurgeon Research Career Development Program (NRCDP) Review.

Date: July 25, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Elizabeth A. Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–1917, *webbere@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 7, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–14642 Filed 7–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Task Force on Research Specific to Pregnant Women and Lactating Women scheduled for August 21–22, 2017, in Conference Room 6, C-Wing, 31, which was published in the **Federal Register** on April 18, 2017, 82 FR 18305. The agenda for the meetings are listed below:

August 21, 2017—Day 1

8:30 a.m. Welcome and Opening Remarks
8:40 a.m. Introductions
9:15 a.m. Background, Timeline, Goals and Reports
9:45 a.m. Scope of the Task Force
11:15 a.m. Identification of Federal Activities
5:00 p.m. End of Day 1

August 22, 2017—Day 2

8:30 a.m. Recap of Day 1, Outline and Goals of Day 2
8:45 a.m. Panel Discussion: Recommendations for coordination of and collaboration on research related to pregnant women and lactating women
10:45 a.m. Open Public Presentations
12:30 p.m. Panel Presentations and Discussion: Dissemination of research findings and information relevant to pregnant women and lactating women to providers and the public
3:00 p.m. Outline Overarching Recommendations from Panels
4:15 p.m. Recap of Meeting, Action Items, Charge to Group
4:30 p.m. End of Day 2, Adjourn Meeting

In addition to filing written comments, oral comments from the public will be scheduled for approximately 10:45 a.m.–11:30 a.m. on August 22, 2017. Any member of the public interested in presenting oral comments to the committee on August 22, 2017, must notify the Contact Person by 5:00 p.m. on Monday, August 7, 2017. Interested individuals and representatives of organizations must submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to three to five minutes per speaker depending on the number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received. Both printed and electronic copies are requested for the record.

Any changes to the meeting agenda, including tentative times, as well as other relevant additional information about the meeting will be posted on the Web site for the Task Force on Research Specific to Pregnant Women and Lactating Women (PRGLAC) located at: *https://www.nichd.nih.gov/about/advisory/PRGLAC/Pages/index.aspx.*

Dated: July 7, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–14643 Filed 7–12–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0544]

Merchant Mariner Medical Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The Merchant Mariner Medical Advisory Committee working group will meet via teleconference to work on Task Statement 25, review of the draft Merchant Mariner Medical Manual, to complete the discussions from its April 4–5, and May 8, 2017 meetings. The teleconference will be open to the public.

DATES: The Merchant Marine Mariner Medical Advisory Committee working group is scheduled to meet via teleconference on Thursday, August 17, 2017, from 2 p.m. until 5 p.m. Eastern Standard Time. Please note that this

teleconference may adjourn early if the working group has completed its business.

ADDRESSES: To join the teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to obtain the needed information no later than 5 p.m. on August 10, 2017. The number of teleconference lines is limited and will be available on a first-come, first served basis. To physically join those participating from U.S. Coast Guard Headquarters, it will be held in Room 5J16–15, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509 (*http://www.dcms.uscg.mil/Our-Organization/Director-of-Operational-Logistics-DOL/Bases/Base-National-Capital-Region/Visitor/*).

Pre-registration Information: Foreign nationals participating physically at the U.S. Coast Guard Headquarters will be required to pre-register no later than 4 p.m. on August 1, 2017. U.S. citizens participating physically at the U.S. Coast Guard Headquarters will be required to pre-register no later than 4 p.m. on August 10, 2017, to be admitted to the meeting. To pre-register, contact Lieutenant Junior Grade James Fortin at 202–372–1128 or *james.l.fortin@uscg.mil* with MEDMAC in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country of citizenship, and passport number and expiration date. All attendees will be required to provide a government-issued picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the teleconference, but if you want working group committee members to review your comment before the meeting, please submit your comments no later than August 10, 2017. We are particularly interested in comments on the issues in the ''Agenda'' section below. You must include ''Department of Homeland Security'' and the docket number USCG–2017–0544. Written comments may also be submitted using Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review the Privacy Act Notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type USCG–2017–0544 in the ''Search'' box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade James Fortin, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509, telephone 202–372–1128, fax 202–372–8385 or *james.l.fortin@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Merchant Mariner Medical Advisory Committee Meeting is authorized by section 210 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281, codified at 46 United States Code 7115). The committee advises the Secretary on matters related to (a) medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

Agenda

The agenda for the August 17, 2017, working group teleconference is as follows:

(1) The working group will meet briefly to discuss Task Statement 25 (All task statements can be found at *https://homeport.uscg.mil/medmac*);

(2) Reports of working sub-groups. The working sub-groups will report to the full working group on what was accomplished in their meetings. The full working group will not take action on these reports at this time. Any action taken as a result of this working group meeting will be taken after the public comment period.

(3) Public comment period.

(4) Preparation of the meeting report to the full Committee.

(5) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/medmac.* Alternatively, you may contact Lieutenant Junior Grade James Fortin as noted in the **FOR FURTHER INFORMATION CONTACT** section above. A public comment period will be held at the end of the day during the working group teleconference concerning matters being discussed. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period will end following the last call for comments. Please contact Lieutenant Junior Grade James Fortin, listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Please note that the teleconference may adjourn early if the work is completed.

Dated: June 26, 2017.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2017–14682 Filed 7–12–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–21]

60-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Act Reporting Requirements

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) to revise the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* September 11, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-

free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone 202–708–6423. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Danner.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Manufactured Home Construction and Safety Standards Act Reporting.

OMB Approval Number: 2502–0253.

Type of Request: Revision.

Form Number: None.

Description of the Need for the Information and Proposed Use: The Federal Standards and Procedural Regulations require manufactured home producers to place labels and notices in and on manufactured homes and mandate State and Private agencies participating in the Federal program to issue reports. Under revisions to the current reporting requirements and Regulations, a streamlined procedure has been added that will allow manufacturers, under certain circumstances, to complete construction of their homes on-site rather than in the factory without first having to obtain advance approval from HUD. In addition, some information collected assists both HUD and State Agency's in locating manufactured homes with defects, which then would create the need for notification and/or correction by the manufacturer.

Respondents (*i.e.* affected public): Business or other for-profit.

Estimated Number of Respondents: 182.

Estimated Number of Responses: 105,479.

Frequency of Response: Monthly.

Average Hours per Response: 1.5.

Total Estimated Burdens: 147,515.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Date: June 9, 2017.

Genger Charles,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2017–14626 Filed 7–12–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0032; FXIA16710900000–178–FF09A30000]

Foreign Endangered and Threatened Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before August 14, 2017.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2017–0032.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2017–0032; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone (703) 358–2023; facsimile (703) 358–2280.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION CONTACT**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses

of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

A. Endangered Species

Applicant: Dallas World Aquarium, Dallas, TX; PRT–15974C and 15975C

The applicant requests a permit to import specimens of two male and one female captive-bred resplendent quetzal (*Pharomachrus mocinno*) from Mexico to enhance the propagation or survival of the species.

Applicant: Columbus Zoo & Aquarium, Powell, OH; PRT–29603C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for African lion (*Panthera leo leo*), African penguin (*Spheniscus demersus*), Siberian tiger (*Panthera tigris altaica*), Asian elephant (*Elephas maximus*), Bornean orangutan (*Pongo pygmaeus*), bonobo (*Pan paniscus*), cheetah (*Acinonyx jubatus*), black rhinoceros *Diceros bicornis*), red-crowned crane (*Grus japonensis*), mandrill (*Mandrillus sphinx*), and Western gorilla (*Gorilla gorilla*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Joan Hemker, Hemker Park and Zoo, Freeport, MN; PRT–21468B

The applicant requests an amendment of an existing captive-bred wildlife registration under 50 CFR 17.21(g) for bontebok (*Damaliscus pygargus*), Arabian oryx (*Oryx leucoryx*), Grevy's zebra (*Equus grevyi*), white-naped crane (*Grus vipio*), black-necked crane (*Grus nigricollis*), and red-crowned crane (*Grus japonensis*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Feld Entertainment, Inc., Palmetto, FL; PRT–30596C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Asian elephant (*Elephas maximus*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Memphis Zoo, Memphis, TN; PRT–10014C

The applicant requests a permit to import two captive-born female Komodo monitors (*Varanus komodoensis*) from the Calgary Zoo in Alberta, Canada, to enhance the propagation or survival of the species.

Applicant: Disney's Animal Kingdom, Lake Buena Vista, FL; PRT–30605C

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for red-collared lemur (*Eulemur collaris*), ring-tailed lemur (*Lemur catta*), golden lion tamarin (*Leontopithecus rosalia*), cotton-top tamarin (*Saguinus oedipus*), lion-tailed macaque (*Macaca silenus*), mandrill (*Mandrillus sphinx*), white-cheeked gibbon (*Nomascus leucogenys*), siamang (*Symphalangus syndactylus*), western lowland gorilla (*Gorilla gorilla*), cheetah (*Acinonyx jubatus*), African lion (*Panthera leo leo*), Sumatran tiger (*Panthera tigris sumatrae*), African wild dog (*Lycaon pictus*), Grevy's zebra (*Equus grevyi*), Hartmann's mountain zebra (*Equus zebra hartmannae*), Somali wild ass (*Equus africanus somaliensis*), southern white rhinoceros (*Ceratotherium simum simum*), black rhinoceros (*Diceros bicornis*), North Sulawesi babirusa (*Babyrousa celebensis*), Eld's deer (*Rucervus eldii*), red lechwe (*Kobus leche*), white-naped crane (*Grus vipio*), radiated tortoise (*Astrochelys radiata*), Galapagos tortoise (*Chelonoidis nigra*), and Komodo monitor (*Varanus komodoensis*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Museum Applicant

Applicant: Bishop Museum, Honolulu, HI; PRT–700877

The applicant requests a renewal of a permit to export and reimport nonliving museum specimens of endangered and threatened species that were previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching in *www.regulations.gov* under the permit number listed in this document.

V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

We will post all hardcopy comments on *http://www.regulations.gov.*

VI. Authorities

Endangered Species Act of 1973, (16 U.S.C. 1531 *et seq.*).

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017–14673 Filed 7–12–17; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–566 and 731–TA–1342 (Final)]

Softwood Lumber from Canada; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–566 and 731–TA–1342 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of softwood lumber from Canada, provided for in subheadings 4407.10.01, 4409.10.05, 4409.10.10, 4409.10.20, 4409.10.90, 4418.90.10. Subject merchandise may also be classified in subheadings 4415.20.40, 4415.20.80, 4418.99.90, 4421.91.70, and 4421.91.97 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce to be subsidized and sold at less-than-fair-value.

DATES: Effective June 30, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187, *fred.ruggles@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, the Department of Commerce has defined the subject merchandise as softwood lumber, siding, flooring and certain other coniferous wood (softwood lumber products).[1] The scope includes:

Coniferous wood, sawn, or chipped lengthwise, sliced or peeled, whether or not planed, whether or not sanded, or whether or not finger-jointed, of an actual thickness exceeding six millimeters.

Coniferous wood siding, flooring, and other coniferous wood (other than moldings and dowel rods), including strips and friezes for parquet flooring, that is continuously shaped (including, but not limited to, tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded) along any of its edges, ends, or faces, whether or not planed, whether or not sanded, or whether or not end-jointed.

Coniferous drilled and notched lumber and angle cut lumber.

Coniferous lumber stacked on edge and fastened together with nails, whether or not with plywood sheathing.

Components or parts of semi-finished or unassembled finished products made from subject merchandise that would otherwise meet the definition of the scope above.

Softwood lumber product imports are generally entered under Chapter 44 of the Harmonized Tariff Schedule of the United States (HTSUS). This chapter of the HTSUS covers ''Wood and articles of wood.'' Softwood lumber products that are subject to this investigation are currently classifiable under the following ten-digit HTSUS subheadings in Chapter 44: 4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.99.10.00.

Subject merchandise as described above might be identified on entry documentation as stringers, square cut box-spring-frame components, fence pickets, truss components, pallet components, flooring, and door and window frame parts. Items so identified might be entered under the following ten-digit HTSUS subheadings in Chapter 44: 4415.20.40.00; 4415.20.80.00; 4418.99.90.05; 4418.99.90.20; 4418.99.90.40; 4418.99.90.95; 4421.91.70.40; and 4421.91.97.80.

Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

The scope of the order excludes the following items: U.S.-origin lumber shipped to Canada for processing and imported into the United States is excluded from the scope of the investigations if the processing occurring in Canada is limited to one or more of the following: (1) Kiln drying; (2) planing to create smooth-to-size board; or (3) sanding. Box-spring frame kits are excluded if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails must be radius-cut at both ends. The kits must be individually packaged and must contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length. Radius-cut box-spring-frame components, not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing are excluded. The radius cuts must be present on both ends of the boards and must be substantially cut so as to completely round one corner.

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Canada of

[1] *Certain Softwood Lumber Products From Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 82 FR 29833, June 30, 2017

softwood lumber, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on November 25, 2016, by the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (the ''Coalition'').[2]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on August 28, 2017, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, September 12, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 6, 2017. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on September 8, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 5, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 19, 2017. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before September 19, 2017. On October 6, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 10, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: July 10, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–14718 Filed 7–12–17; 8:45 am]

BILLING CODE 7020–02–P

[2] The Coalition is an ad hoc association whose members are: U.S. Lumber Coalition, Inc., Collum's Lumber Products, L.L.C., Hankins, Inc., Potlach Corp., Rex Lumber Company, Seneca Sawmill Company, Sierra Pacific Industries, Stimson Lumber Company, Swanson Group, Weyerhaeuser Company, Carpenters Industrial Council, Giustina Land and Timber Company, Sullivan Forestry Consultants, Inc. The Coalition is ''an association, a majority of whose members is composed of interested parties'' described in Section 771(9)(C) of the Act, 19 U.S.C. 1677(9)(C).

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Recombinant Factor IX Products DN 3236;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Bioverativ Inc.; Bioverativ Therapeutics Inc.; and Bioverativ U.S. LLC on July 7, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain recombinant factor IX products. The complaint names as respondents CSL Behring LLC of King of Prussia, PA; CSL Behring GmbH of Germany; and CSL Behring Recombinant Facility AG of Switzerland. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3236'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 7, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–14650 Filed 7–12–17; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Firearms Transaction Record/Registro de Transaccíon de Armas (ATF Form 4473) (5300.9)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register**, on May 8, 2017, allowing for a 60-day comment period. This information collection OMB 1140–0020 (Firearms Transaction Record (ATF Form 4473 (5300.9) is being revised to make available a Spanish version (Registro de Transaccíon de Armas) as a courtesy to Federal firearms licensees with clientele for whom Spanish is their native language. The proposed information collection is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 14, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Helen Koppe, Program Manager, ATF Firearms & Explosives Industry Division either by mail at 99 New York Avenue NE., Washington, DC 20226, or by email at *FederalRegisterNoticeATFF4473@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Firearms Transaction Record/Registro de Transaccíon de Armas.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 4473 (5300.9).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit.

Abstract: The information and certification on the Form 4473 are designed so that a person licensed under 18 U.S.C. 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A. It also alerts buyers to certain restrictions on the receipt and possession of firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 18,275,240 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 9,137,620, which is equal to (18,275,240 (total number of respondents) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: July 10, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–14687 Filed 7–12–17; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1741]

Minimum Scheme Requirements To Certify Criminal Justice Restraints Described in NIJ Standard 1001.00

AGENCY: National Institute of Justice, Justice.

ACTION: Notice.

SUMMARY: The National Institute of Justice (NIJ) announces publication of *Minimum Scheme Requirements to Certify Criminal Justice Restraints Described in NIJ Standard 1001.00.* The minimum scheme requirements are found in the Supplementary Information below, as well as in the document found here: *https://www.ncjrs.gov/pdffiles1/nij/250566.pdf.* NIJ Standard 1001.00, *Criminal Justice Restraints Standard,* was published in the **Federal Register** on November 19, 2014, and may be found here: *https://federalregister.gov/a/2014-27367.* All references to ''Criminal Justice Restraints Certification Program Requirements, NIJ CR–1001.00'' in NIJ Standard 1001.00, including in Section 1.1.1 of that standard, shall be understood to refer to the *Minimum Scheme Requirements* published here.

NIJ has been working with conformity assessment bodies to develop acceptable criteria by which NIJ would recognize a product certification scheme operated by a certification body in the private sector. Certification better ensures that quality restraints are available to criminal justice practitioners. In the interest of officer safety and public safety, NIJ anticipates recognizing certification programs in the private sector that meet or exceed the minimum scheme requirements. Certification bodies that are interested in developing a product certification scheme for restraints described in NIJ Standard 1001.00 should contact NIJ at the contact information listed below. As previously noted (*https://www.federalregister.gov/d/2016-22057*), Safety Equipment Institute (SEI), which is accredited by the American National Standards Institute (ANSI) to ISO/IEC 17065 *Conformity assessment —Requirements for bodies certifying products, processes and services,* has

established a certification program for restraints described in NIJ Standard 1001.00. ISO/IEC 17065 is a joint endeavor of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Further guidance on recognition of this certification program or others will be published in the **Federal Register** at a future date, to be determined.

FOR FURTHER INFORMATION CONTACT: Mark Greene, Policy and Standards Division Director, Office of Science and Technology, National Institute of Justice, 810 7th Street NW., Washington, DC 20531; telephone number: (202) 307–3384; email address: *mark.greene2@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The following describes the minimum requirements that a product certification scheme must contain for the certification of restraints described in NIJ Standard 1001.00, *Criminal Justice Restraints Standard.* A product certification scheme includes the rules, procedures, and management required for carrying out product certification, which involves the assessment and attestation by an impartial third party that fulfilment of specified requirements has been demonstrated by a product. This is discussed further in ISO/IEC 17067, *Conformity assessment—Fundamentals of product certification and guidelines for product certification schemes.*

The following is intended primarily for those considering becoming certification scheme owners for the purpose of certifying restraints, in order to provide greater confidence to the criminal justice end user community that the restraints products conform to the requirements specified in NIJ Standard 1001.00. It includes minimum reasonable expectations that a certification body should meet in order to operate a certification program for restraints. The following is also intended for accreditation bodies that accredit certification bodies which may be considering certifying restraints to a scheme that includes laboratory testing of products to NIJ Standard 1001.00.

A draft version of the following was published for public comment for 30 days in the **Federal Register**, and may be found here: *https://www.federalregister.gov/d/2016-22057.* The public comment period opened on September 14, 2016, and closed on October 14, 2016.

The following terms are used in accordance with international standards:

—''shall'' indicates a requirement;

—''should'' indicates a recommendation;

—''may'' indicates a permission;

—''can'' indicates a possibility or a capability.

Nothing in the following is intended to create any legal or procedural rights enforceable against the United States. Moreover, nothing in this document creates any obligation for conformity assessment bodies to follow or adopt this voluntary standard, nor does it create any obligation for manufacturers, suppliers, law enforcement agencies, or others to follow or adopt voluntary NIJ equipment standards.

1 Scope

1.1 This document describes the minimum requirements that a product certification scheme must contain for the certification of restraints described in NIJ Standard 1001.00, *Criminal Justice Restraints Standard.*

1.2 This document includes provisions for NIJ to file urgent complaints with a certification body regarding products it certifies to protect criminal justice end users of restraints products, such as police officers and correctional officers, if NIJ believes that a hazardous condition exists.

1.3 This document includes provisions for NIJ to file urgent complaints with an accreditation body regarding conformity assessment bodies it accredits in the certification scheme to protect criminal justice end users of restraints products, such as police officers and correctional officers, if NIJ believes that a hazardous condition exists.

2 Normative References

ISO/IEC 17000, *Conformity assessment—Vocabulary and general principles*

ISO/IEC 17025, *General requirements for the competence of testing and calibration laboratories*

ISO/IEC 17030, *Conformity assessment—General requirements for third-party marks of conformity*

ISO/IEC 17065, *Conformity assessment—Requirements for bodies certifying products, processes and services*

ISO/IEC 17067, *Conformity assessment—Fundamentals of product certification and guidelines for product certification schemes*

ISO/IEC Directives, Part 2, *Principles and rules for the structure and drafting of ISO and IEC documents,* seventh edition, 2016

NIJ Standard 1001.00, *Criminal Justice Restraints Standard*

3 Terms and Definitions

For the purposes of this document, the terms and definitions given in ISO/IEC 17000, ISO/IEC 17065, ISO/IEC 17067, and NIJ 1001.00 apply.

4 Scheme requirements

4.1 The product certification scheme shall follow the guidelines in ISO/IEC 17067.

4.1.1 The product certification scheme shall be of scheme type 5 as described in 5.3.7 in ISO/IEC 17067.

4.1.2 The scheme shall include provisions for the certification body to ensure that the client maintains an appropriate quality management system (*e.g.,* conforms to ISO 9001) and that the client follows appropriate quality assurance processes.

4.1.3 The certification body shall issue a mark of conformity to be displayed on certified products in accordance with ISO/IEC 17030.

4.2 Conformity assessment bodies shall be accredited.

4.2.1 Certification bodies shall be accredited to ISO/IEC 17065 by an accreditation body that is a signatory to the International Accreditation Forum (IAF) Multilateral Recognition Arrangement (MLA).

4.2.2 Certification bodies shall have a scope of accreditation to include NIJ 1001.00.

4.2.3 Testing laboratories shall be accredited to ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA).

4.2.4 Testing laboratories shall have a scope of accreditation that includes NIJ 1001.00 and all test methods referenced therein.

4.2.5 The certification body can take the qualification, assessing, and monitoring performed by other organizations (*e.g.,* accreditation bodies) or bodies that provide outsourced services (*e.g.,* testing laboratories) into account provided that: (1) It is provided for within the scheme requirements; (2) the scope is applicable to the work being undertaken; and (3) the validity of the qualification, assessing, and monitoring arrangements is verified at a periodicity determined by the certification body.

4.3 NIJ may request information from the certification body.

4.3.1 NIJ may request in writing directly from the certification body a list of all actions taken against specified current or previously certified products, such as termination, reduction, suspension, or withdrawal of certification.

4.3.2 If requested to do so, the certification body shall provide in writing the information requested by NIJ in 4.3.1 within five (5) working days.

4.4 NIJ may bring urgent complaints to the certification body.

4.4.1 NIJ may bring urgent complaints regarding certified products, or products believed to be certified, directly to the certification body if NIJ believes that a hazardous condition exists.

4.4.2 Should NIJ bring an urgent complaint to the attention of the certification body, NIJ shall articulate the complaint in writing.

4.4.3 The certification body shall provide an expedited response in writing to NIJ within five (5) working days, articulating how it plans to proceed with the urgent complaint, including actions it may take to determine the validity of the complaint and an estimated timeline to determine the validity of the complaint.

4.5 NIJ may request information from accreditation bodies.

4.5.1 NIJ may request in writing directly from an accreditation body a list of all actions taken against a conformity assessment body that it accredits in the certification scheme, such as termination, reduction, suspension, or withdrawal of certification.

4.5.2 If requested to do so, the accreditation body shall provide in writing the information NIJ requested in 4.5.1 within five (5) working days.

4.6 NIJ may bring urgent complaints to accreditation bodies.

4.6.1 NIJ may bring urgent complaints directly to an accreditation body regarding conformity assessment bodies that it accredits in the certification scheme if NIJ believes a hazardous condition exists.

4.6.2 Should NIJ bring an urgent complaint to the attention of an accreditation body, NIJ shall articulate the complaint in writing.

4.6.3 The accreditation body shall provide an expedited response in writing to NIJ within five (5) working days, articulating how it plans to proceed with the urgent complaint, including actions it may take to determine the validity of the complaint and an estimated timeline to determine the validity of the complaint.

4.7 Accreditation bodies shall notify NIJ of any changes in the accreditation status or scope of accreditation of any conformity assessment bodies in the certification scheme.

4.7.1 Changes in accreditation status include suspension, withdrawal, or reduction of the scope of accreditation.

4.7.2 The accreditation body shall notify NIJ in writing within five (5) working days after such action is taken.

Howard Spivak,

Acting Director, National Institute of Justice.

[FR Doc. 2017–14638 Filed 7–12–17; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (17–051)]

NASA Advisory Council; Ad Hoc Task Force on STEM Education Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration announces a meeting of the Ad Hoc Task Force on Science, Technology, Engineering and Mathematics (STEM) of the NASA Advisory Council (NAC). This Task Force reports to the NAC.

DATES: Wednesday, July 19, 2017, 2:15 p.m. to 4:30 p.m., EDT.

ADDRESSES: NASA Headquarters, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girten, Executive Secretary, NAC Ad Hoc Task Force on STEM Education, NASA Headquarters, Washington, DC 20546, 202–358–0212, or *beverly.e.girten@nasa.gov.*

SUPPLEMENTARY INFORMATION: This is a virtual meeting and will be open to the public telephonically and by WebEx only. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 1–844–467–6272 or toll access number 1–720–259–6462, and then the numeric participant passcode: 634012 followed by the # sign. To join via WebEx on July 19, 2017, the link is *https://nasa.webex.com/,* the meeting number is 998 317 068 and the password is Elaine54$ (case sensitive.) NOTE: If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Opening Remarks by Chair
—STEM Education Advisory Panel (CoSTEM)
—Update on Business Service Assessment
—Status on Office of Education Budget
—Discussing/Finalizing Findings and Recommendations
—Other Related Topics

This virtual meeting is taking place with less than 15 calendar days' notice due to administrative scheduling issues. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–14711 Filed 7–12–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Environmental Research and Education (9487) (Teleconference).

Date and Time: August 31, 2017: 12:00 p.m. (EDT)–2:00 p.m. (EDT).

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 (Teleconference).

Type of Meeting: Open.

Contact Person: Dr. Leah Nichols, Staff Associate, Office of Integrative Activities/Office of Director/National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; (Email: *lenichol@nsf.gov*); Telephone: (703) 292–2983).

Minutes: May be obtained from *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda: To receive and discuss subcommittee work and prepare for future advisory committee activities. Updated agenda and teleconference link will be available at *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Dated: July 10, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017–14700 Filed 7–12–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5

U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME AND DATE: Open meeting of the Executive Committee of the National Science Board, to be held Monday, July 17, 2017, from 11:00 a.m. to 12:00 p.m. EDT.

PLACE: This meeting will be held by teleconference at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

STATUS: Open.

MATTERS TO BE CONSIDERED: Executive Committee Chair's opening remarks; approval of Executive Committee minutes, and discussion of issues and topics for the agendas of the NSB meetings scheduled for August 15–16, 2017.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: James Hamos, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8000.

You may find meeting information and updates (time, place, subject matter or status of meeting) at *http://www.nsf.gov/nsb/notices/.*

SUPPLEMENTARY INFORMATION: An audio link will be available for the public. Members of the public must contact the Board Office to request the public audio link by sending an email to *nationalsciencebrd@nsf.gov* at least 24 hours prior to the teleconference.

Dated: July 10, 2017.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2017–14779 Filed 7–11–17; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–09068; NRC–2008–0391]

Lost Creek ISR, LLC, Lost Creek Uranium In-Situ Recovery Project, Sweetwater County, Wyoming

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to request a hearing and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application, dated February 27, 2017 (and supplemented on April 25, 2017), from Lost Creek ISR, LLC (Lost Creek) to amend its Source and Byproduct Materials License (SUA–1598) for the Lost Creek Facility in Sweetwater County, Wyoming. The amendment would authorize recovery of uranium by In Situ Recovery (ISR) extraction techniques at the Lost Creek East Expansion Area, which is adjacent to the existing approved facility, and at the next deeper horizon at both the existing and proposed expansion area. The amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: A request for a hearing or petition for leave to intervene must be filed by September 11, 2017. Any potential party, as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by July 24, 2017.

ADDRESSES: Please refer to Docket ID NRC–2008–0391 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0391. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Saxton, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0697; email: *John.Saxton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received, by letter dated February 27, 2017 (ADAMS Accession No. ML17069A296), and supplemented on April 25, 2017 (ADAMS Accession No. ML17115A215), an application to amend Lost Creek's Source and Byproduct Materials License SUA–11598 for the Lost Creek Facility located in Sweetwater County, Wyoming. The proposed amendment would authorize the recovery of uranium by ISR extraction techniques at the Lost Creek East Expansion Area and at deeper subsurface horizon (the KM Horizon) with both the existing facility and proposed expansion area. This application contains SUNSI.

An NRC administrative completeness review found the application acceptable for technical review (ADAMS Accession No. ML17115A400). Prior to approving the amendment application, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report prepared by the NRC. The NRC will participate in the development of an environmental impact statement (EIS) prepared by the U.S. Bureau of Land Management (BLM) in accordance with the Memorandum of Understanding between the NRC and the BLM dated February 12, 2013 (ADAMS Accession No. ML13072A778). The NRC will review the BLM's EIS for adoption to fulfil the NRC's responsibilities under the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA). The BLM and the NRC agreed that the BLM would be the designated lead agency in preparation of this EIS by letter dated December 14, 2104 (ADAMS Accession No. ML14303A508). The BLM's notice of intent to prepare the EIS was noticed in the **Federal Register** on September 14, 2015 (80 FR 55149).

In addition to the structural expansion, the amendment application also includes a request to increase the maximum permitted annual production of yellowcake from 2.0 to 2.2 million pounds.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and

Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by September 11, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who

have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 7th day of July 2017.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary, Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2017–14672 Filed 7–12–17; 8:45 am]
BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* July 13, 2017.

FOR FURTHER INFORMATION CONTACT: Maria W. Votsch, 202–268–6525.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 6, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 22 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–155, CP2017–219.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–14633 Filed 7–12–17; 8:45 am]
BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81097; File No. SR–NASDAQ–2016–161]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt a New Extended Life Priority Order Attribute Under Rule 4703, and To Make Related Changes to Rules 4702, 4752, 4753, 4754, and 4757

July 7, 2017.

I. Introduction

On November 17, 2016, the NASDAQ Stock Market LLC (''Exchange'' or ''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a new extended life priority order (''ELO'') attribute for designated retail orders under Nasdaq Rule (''Rule(s)'') 4703, and to make related changes to Rules 4702, 4752, 4753, 4754, and 4757. The proposed rule change was published for comment in the **Federal Register** on December 5, 2016.[3] On January 17, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission initially received seven comment letters on the proposed rule change.[6] On February 17, 2017, the Exchange filed Amendment No. 1 to the proposed rule change [7] and submitted a comment response letter.[8] The Commission subsequently received two additional comment letters on the proposed rule change.[9] On March 3, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [10] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[11] The Commission received two additional comment letters on the proposed rule change in response to the Order Instituting Proceedings.[12] On April 24, 2017, the Exchange submitted a second comment response letter.[13] On May 31, 2017, the Exchange extended the time period for Commission action to August 2, 2017. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange has proposed to offer a new ELO attribute, which would allow certain displayed retail orders to receive higher priority on the Nasdaq book than other orders at the same price (''Extended Life Priority''), and to make conforming changes to its rules. As discussed in more detail below, the Exchange has proposed to amend Rule 4703 to set forth the ELO attribute in new subparagraph (m), add an attachment B to its designated retail order attestation form that sets forth an attestation that would be required of members in connection with utilizing the ELO attribute, and make related changes to Rules 4702(b), 4752, 4753, 4754, and 4757.

A. Proposed Rule 4703(m) and Attestation

Proposed Rule 4703(m) states that ELO is an order attribute that allows an order to receive priority in the Nasdaq book above other orders resting on the Nasdaq book at the same price that are

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79428 (November 30, 2016), 81 FR 87628 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 79810, 82 FR 8244 (January 24, 2017). The Commission designated March 5, 2017 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] *See* Letters to Brent J. Fields, Secretary, Commission, from: Joseph Saluzzi and Sal Arnuk, Partners, Themis Trading LLC, dated December 19, 2016 (''Themis Letter I''); Eric Swanson, EVP, General Counsel, and Secretary, Bats Global Markets, Inc., dated December 22, 2016 (''BATS Letter''); Adam Nunes, Head of Business Development, Hudson River Trading LLC, dated December 22, 2016 (''Hudson River Trading Letter''); Joanna Mallers, Secretary, FIA Principal Traders Group, dated December 23, 2016 (''FIA PTG Letter I''); Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, dated December 27, 2016 (''Citadel Letter I''); Andrew Stevens, General Counsel, IMC Financial Markets, dated December 28, 2016 (''IMC Letter''); and Venu Palaparthi, SVP, Compliance, Regulatory & Government Affairs, Virtu Financial LLC, dated February 9, 2017 (''Virtu Letter'').

[7] In Amendment No. 1, the Exchange: (i) Specified that the ELO attribute would be available during ''System Hours'' as defined in Rule 4701(g); (ii) clarified that any subsequent proposal to broaden the availability of the ELO attribute would be set forth in a distinct rule filing; (iii) provided additional details regarding the calculation of the 99% ELO eligibility requirement; (iv) proposed to assess members' compliance with ELO eligibility requirements on a monthly basis instead of a quarterly basis as initially proposed; (v) stated that, concurrently with the initial launch of the ELO attribute, it will implement new surveillances to identify any potential misuse of the ELO attribute; (vi) provided additional discussions regarding the availability of the ELO identifier on the Exchange's TotalView ITCH market data feed; (vii) provided additional details as to how the ELO attribute would operate with other order attributes and cross-specific order types; (viii) provided information regarding the Exchange's implementation of the ELO attribute; and (ix) provided additional justifications for proposing the ELO attribute. Amendment No. 1 has been placed in the public comment file for SR–NASDAQ–2016–161 at *https://www.sec.gov/comments/sr-nasdaq-2016-161/nasdaq2016161-1589828-132168.pdf.*

[8] *See* Letter to Brent J. Fields, Secretary, Commission, from T. Sean Bennett, Associate Vice President and Principal Associate General Counsel, Nasdaq, dated February 17, 2017 (''Nasdaq Response Letter I'').

[9] *See* Letters to Brent J. Fields, Secretary, Commission, from: John Ramsay, Chief Market Policy Officer, Investors Exchange LLC, dated March 2, 2017 (''IEX Letter''); and Joseph Saluzzi and Sal Arnuk, Partners, Themis Trading LLC, dated March 3, 2017 (''Themis Letter II'').

[10] 15 U.S.C. 78s(b)(2)(B).

[11] *See* Securities Exchange Act Release No. 80149, 82 FR 13168 (March 9, 2017) (''Order Instituting Proceedings'').

[12] *See* Letter to Brent J. Fields, Secretary, Commission, from Joanna Mallers, Secretary, FIA Principal Traders Group, dated March 30, 2017 (''FIA PTG Letter II''); Letter to Eduardo A. Aleman, Assistant Secretary, Commission, from Stephen John Berger, Managing Director, Government & Regulatory Policy, Citadel Securities, dated March 30, 2017 (''Citadel Letter II'').

[13] *See* Letter to Brent J. Fields, Secretary, Commission, from T. Sean Bennett, Associate Vice President and Principal Associate General Counsel, Nasdaq, dated April 24, 2017 (''Nasdaq Response Letter II'').

not designated with the ELO attribute.[14] As proposed, the ELO attribute would be available only for displayed orders that qualify as Designated Retail Orders,[15] and would be available during System Hours.[16] A Designated Retail Order with the ELO attribute that is not marketable upon entry would be ranked on the Nasdaq book ahead of other displayed orders at the same price level that do not have the ELO attribute, but behind any other ELO orders at the same price level that the Exchange received previously.[17]

As proposed, at least 99% of the Designated Retail Orders with the ELO attribute entered by the member must exist unaltered on the Nasdaq book for a minimum of one second for an Exchange member to be eligible to use the ELO attribute.[18] Exchange members would be required to submit a signed written attestation that they will comply with these eligibility requirements.[19]

For purposes of determining compliance with the 99% threshold, the Exchange would measure the number of orders with the ELO attribute that rested for one second or longer and divide that value by the number of orders that the member marked with the ELO attribute.[20] Moreover, the one second time frame would begin at the time the ELO order is entered into the Nasdaq book and would conclude once the order is removed from the Nasdaq book or modified by the participant or the Nasdaq system.[21] As proposed, any change to an order that would currently result in the order losing priority (*i.e.,* a change in the order's time stamp) would, if applied to an ELO order, be considered an alteration of the ELO order and stop the clock in terms of determining whether the order rested on the book unaltered for at least one second.[22] In this vein, the Exchange stated that any type of update to an order that creates a new time stamp for priority purposes would count as a modification of the order and noted, by way of example, that each time an ELO order is updated due to pegging,[23] re-pricing, or reserve replenishment, the one-second timer would restart.[24] The Exchange also stated that full cancellations would stop the timer.[25] In addition, a sub-second full or partial execution of an ELO order resting on the Nasdaq book would not count as an order modification for purposes of determining compliance with the ELO eligibility requirements.[26] Accordingly, a sub-second partial execution of an ELO order would not reset the time from which the one second time frame is measured for the remainder of the order.[27] Likewise, a member's reduction of the size of a resting ELO order prior to one second elapsing also would not count as an alteration for purposes of determining compliance with the ELO eligibility requirements.[28]

As noted above, only displayed Designated Retail Orders would be eligible for the ELO attribute, and if a Designated Retail Order with a non-display attribute also is entered with the ELO attribute, the order would be added to the Nasdaq book as a non-displayed order without Extended Life Priority.[29] By way of example, the Exchange noted that an order with minimum quantity or midpoint pegging attributes would not be able to receive Extended Life Priority because an order with either of those attributes must be non-displayed.[30] The Exchange also noted that a reserve order has a displayed portion and non-displayed portion, and the displayed portion of a reserve order with the ELO attribute would be eligible to receive Extended Life Priority while the non-displayed portion of the order would not.[31] If the displayed portion of such an order receives a full execution, the displayed quantity would be replenished from the non-displayed reserve quantity, the newly-replenished displayed size would receive a new time stamp and Extended Life Priority based on that time stamp, and a new timer would start for purposes of determining compliance with the one second requirement.[32]

As proposed, an order designated with the ELO attribute would only have Extended Life Priority if it is ranked at its displayed price. Specifically, proposed Rule 4703(m) would provide that an ELO order that is adjusted by the Exchange system upon entry to be displayed on the Nasdaq book at one price but ranked on the book at a different, non-displayed price would be ranked without the ELO attribute at the non-displayed price. If the Nasdaq system subsequently adjusts such an order to be displayed and ranked on the Nasdaq book at the same price, the order would be assigned Extended Life Priority and ranked on the book in time priority among other orders with Extended Life Priority at that price.[33]

Additionally, proposed Rule 4703(m) would provide that, for purposes of the Nasdaq opening, closing, and halt crosses, all ELO orders on the Nasdaq book upon initiation of a cross may participate in such a cross and retain priority among orders posted on the Nasdaq book that also participate in the

[14] *See also* proposed changes to Rule 4757(a)(1)(B).

[15] *See* proposed Rule 4703(m). A ''Designated Retail Order'' is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 and that originates from a natural person and is submitted to Nasdaq by a member that designates it pursuant to Rule 7018, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Rule 7018. If a Designated Retail Order with a non-display attribute is also entered with the ELO attribute, the ELO attribute would be ignored and the order would be ranked on the Nasdaq book as a non-displayed order without Extended Life Priority. *See* proposed Rule 4703(m). The Exchange has stated that it may propose to extend the availability of the ELO functionality to all orders that meet the requirements of the ELO attribute at a later time. *See* Notice, 81 FR at 87630; *see also* Amendment No. 1. According to the Exchange, any such proposal would be made through a separate filing of a proposed rule change with the Commission, and would likely require significant changes to the operation of the ELO attribute to account for the different participants eligible to use the attribute. *See* Amendment No. 1.

[16] *See* Amendment No. 1. *See also* Rule 4701(g) (defining ''System Hours'' to mean the period of time beginning at 4:00 a.m. ET and ending at 8:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early)).

[17] *See* proposed Rule 4703(m); *see also* Notice, 81 FR at 87631.

[18] *See* proposed Rule 4703(m). The Exchange has stated that it will monitor the effectiveness of the one-second minimum resting time and the 99% threshold, and will propose to adjust these requirements, as needed, in a separate proposed rule change with the Commission. *See* Amendment No. 1.

[19] *See* proposed Rule 4703(m). The Exchange has proposed to amend its designated retail order attestation form to add an attachment B in order to require members to attest to compliance with the eligibility requirements for the ELO attribute, and to attest to their understanding of the penalties in cases of non-compliance. *See* proposed changes to the designated retail order attestation form, included as Exhibit 3 to Amendment No. 1. As proposed, the designated retail order attestation form also would inform members that they can designate certain order entry ports as ''Retail Extended Life Order Ports'' or tag each order as a ''Retail Extended Life Order.'' *See id.*

[20] *See* Amendment No. 1.

[21] *See id.* For an ELO order that Nasdaq routes upon receipt, the one second time frame would begin if and when the order returns to Nasdaq and is posted on the Nasdaq book. *See id.*

[22] *See id.*

[23] The Exchange illustrated through an example that each time an ELO order with a primary or market pegging attribute has its price updated, it would be considered a new order for purposes of determining its resting time. *See id.* According to the Exchange, each price update would be considered a separate order for determining compliance with the ELO eligibility requirements. *See id.*

[24] *See id.*

[25] *See id.*

[26] *See* proposed Rule 4703(m); *see also* Amendment No. 1.

[27] *See* Amendment No. 1.

[28] *See id.*

[29] *See* proposed Rule 4703(m); *see also supra* note 15.

[30] *See* Amendment No. 1.

[31] *See id.*

[32] *See id.*

[33] *See* proposed Rule 4703(m).

cross. Upon initiation of a cross, all ELO orders on the Nasdaq book that are eligible to participate in a cross would be processed in accordance with Rule 4752 (Opening Process), Rule 4753 (Nasdaq Halt Cross), or Rule 4754 (Nasdaq Closing Cross), as applicable.[34] ELO orders that are held by the Nasdaq system for participation in the opening or closing cross would not have Extended Life Priority in the cross,[35] but would be assigned Extended Life Priority if the order joins the Nasdaq book upon completion of the cross.[36] Any orders with Extended Life Priority that are not executed in a cross would be ranked on the Nasdaq book with Extended Life Priority.[37]

The Exchange stated that it would carefully monitor members' use of the ELO attribute on a monthly basis and would not rely solely on a member's attestation with regard to ELO usage.[38] The Exchange also stated that it would determine whether a member was in compliance with the ELO eligibility requirements for a given month within five business days of the end of that month.[39] A member that does not meet the ELO eligibility requirements for any given month would be ineligible to receive Extended Life Priority for its orders in the month immediately following the month in which it did not comply.[40] Following the end of the ineligible month, a member would once again be able to enter ELO orders if it completes a new attestation.[41] If a member fails to meet the ELO eligibility requirements for a second time, its orders would not be eligible for Extended Life Priority for the two months immediately following the month in which it did not meet the eligibility requirements for the second time.[42] If a member fails to meet the ELO eligibility requirements for a third time, it would no longer be eligible to receive Extended Life Priority for its orders.[43] In addition, concurrently with the launch of the ELO attribute, the Exchange would implement new surveillances to identify any potential misuse of the ELO attribute.[44] Moreover, any attempted manipulation or misrepresentation of the nature of an ELO order (*e.g.,* representing a non-retail order to be a Designated Retail Order) would be a violation of Nasdaq's rules.[45]

The Exchange has proposed to designate orders with the ELO attribute with a new, unique identifier.[46] Specifically, orders with the ELO attribute may be individually designated with the new identifier, or may be entered through an order port that has been set to designate, by default, all orders with the new identifier.[47] Orders marked with the new identifier—whether on an order-by-order basis or via a designated port—would be disseminated via Nasdaq's TotalView ITCH data feed.[48]

B. Additional Conforming Rule Changes

In connection with the proposed addition of Rule 4703(m), the Exchange has proposed to make conforming changes to Rules 4702(b)(1)(C), (b)(2)(C), and (b)(4)(C) to indicate that the ELO attribute may be assigned to price to comply, price to display, and post-only orders, respectively. In addition, the Exchange has proposed to amend Rules 4752 (Opening Process), 4753 (Nasdaq Halt Cross), and 4754 (Nasdaq Closing Cross) to incorporate ELO orders into the cross execution priority hierarchies set forth in each of those rules.

C. Implementation

The Exchange has stated that it plans to implement the ELO functionality for Designated Retail Orders in a measured manner.[49] Specifically, the Exchange anticipates a rollout of the ELO functionality, beginning with a small set of symbols and gradually expanding further, and that it will publish the symbols that are eligible for the ELO attribute on its Web site.[50] According to the Exchange, the exact implementation date would be reliant on several factors, such as the results of extensive testing and industry events and initiatives.[51] The Exchange currently plans to implement the initial set of symbols for ELO in the third quarter of 2017.[52]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[53] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[54] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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, and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and Section 6(b)(8) of the Act,[55] which requires that the rules of a national securities

[34] *See id.*

[35] According to the Exchange, cross-specific orders marked with the ELO attribute would be eligible to participate in the Nasdaq opening, halt, and closing crosses, but they would be ranked for purposes of a cross execution without the ELO attribute. *See* Notice, 81 FR at 87631. By contrast, orders with the ELO attribute that are ranked on the Nasdaq book (*i.e.,* orders that are in the continuous market) would retain Extended Life Priority for purposes of a cross execution. *See id. See also* Amendment No. 1.

[36] *See* proposed Rule 4703(m).

[37] *See id.*

[38] *See* Amendment No. 1.

[39] *See id.*

[40] *See id.; see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1. The Exchange has stated that its system would prevent a member that is not eligible to participate in the program from entering orders that are flagged with Extended Life Priority (including such designation on the port level). *See* Notice, 81 FR at 87630 n.17.

[41] *See* Amendment No. 1; *see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[42] Following the end of the ineligible months, a member would once again be able to enter ELO orders if it completes a new attestation. *See* Amendment No. 1; *see also* proposed new attachment B to the Exchange's designated retail order attestation Form at Exhibit 3 to Amendment No. 1.

[43] *See* Amendment No. 1; *see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[44] *See* Amendment No. 1.

[45] *See id.* According to Nasdaq, like the current surveillances it conducts, the new surveillances would identify potential violative conduct that would be investigated by Nasdaq and FINRA, and if the conduct is found to be violative, the offending member would be subject to disciplinary action. *See id.* (citing the Nasdaq Rule 9000 Series). *See also infra* notes 96–98 and accompanying text.

[46] *See* Notice, 81 FR at 87630–31; *see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[47] *See* Notice, 81 FR at 87630–31; *see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[48] *See* Notice, 81 FR at 87630–31. The Exchange is not proposing to disseminate the ELO identifier via the SIP data feeds. *See* Amendment No. 1.

[49] *See* Amendment No. 1.

[50] *See id.* The Exchange noted that, in symbols that are not eligible for the ELO functionality, it would accept orders submitted with the ELO attribute as non-ELO orders. *See id.*

[51] *See id.*

[52] *See id.* The Exchange stated that it would notify market participants via an Equity Trader Alert once a specific date for the initial rollout is determined. *See id.*

[53] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[54] 15 U.S.C. 78f(b)(5).

[55] 15 U.S.C. 78f(b)(8).

exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the Exchange's proposed ELO functionality should benefit retail investors by providing enhanced order book priority to retail order flow that is not marketable upon entry. Such enhanced order book priority could result in additional or more immediate execution opportunities on the Exchange for resting retail orders that otherwise would be farther down in the order book queue, and thereby enhance execution opportunities for retail investors.

As noted above, the Commission received eleven comment letters on the proposed rule change,[56] and two response letters from the Exchange.[57] One of the commenters expressed support for the proposal, but encouraged additional safeguards to minimize the opportunity for potential gaming of the ELO eligibility requirements.[58] Other commenters expressed concerns that focused on the availability of the ELO attribute only to retail orders; the eligibility requirements for the ELO attribute, including the attestation requirement and the Exchange's methods for monitoring compliance and imposing discipline for non-compliance; the identification of ELO orders in Nasdaq's market data feed; and the potential conflict between the proposed ELO eligibility requirements and other activities of the member.

Four commenters expressed concern that the Exchange's proposal would be unfairly discriminatory by providing the ELO functionality only to retail orders.[59] One commenter argued that the proposal would unfairly burden competition because it would allow the Exchange to compete for order flow by creating an order attribute that inappropriately favors certain market participants at the expense of others.[60] Two commenters argued that the proposal is unnecessary, stating that there is insufficient evidence that retail investors are experiencing difficulty in obtaining fills for resting orders and therefore would benefit from the proposed functionality.[61]

Four commenters also expressed concern that the proposal would increase equity market structure complexity, create uncertainty regarding the priority of resting orders, and negatively impact market liquidity and price discovery.[62] According to these commenters, the increased uncertainty among liquidity providers would result in wider spreads, which would adversely impact long-term investors, including institutional and retail investors.[63] One of these commenters suggested that the proposal would negatively impact market makers' hedging strategies in ETFs and their underlying securities, and the associated risk and cost would be borne by institutional and retail investors.[64] Another commenter argued that ELO orders should not receive priority over other orders that have already been resting for at least one second, and that doing so would discourage other market participants from displaying liquidity.[65]

In response, the Exchange stated its belief that the growth in internalization and the speed of execution has required differentiation of retail orders, which are typically entered by long-term investors, from those of other market participants.[66] The Exchange noted that the proposal is an effort to promote displayed orders with longer time horizons to enhance the market so that it works better for a wider array of market participants.[67] According to the Exchange, unlike professional market makers and automated liquidity providers, who commonly invest in low-latency technology to facilitate efficient order book placement, retail investors generally have a longer investment horizon, do not necessarily monitor market changes over very short time periods, and generally have not focused on efficient order queue placement of displayed orders.[68] As a result, the Exchange believes that its current price/display/time priority structure may limit retail investors from effectively participating on the Exchange, particularly in highly-liquid securities where the sequence of order arrival is important to participation in ensuing transactions on the Nasdaq order book.[69] The Exchange also noted that providing the proposed ELO functionality to retail investors would help improve execution quality and retail participation in on-exchange transactions, which should improve overall market quality on the Exchange.[70] According to the Exchange, an increase in participation from the retail segment of the market would increase the diversity of the marketplace and thereby improve general market function and price discovery.[71] Further, the Exchange stated that providing a mechanism by which retail orders may have an increased chance of execution on the Exchange would promote competition among the Exchange, its exchange peers, and off-exchange trading venues.[72]

The Commission recognizes that market participants generally distinguish individual retail investors from professional traders, and that retail investors are presumed to be less informed than professional traders. Recognizing this distinction, the Commission believes that the Exchange's proposal to provide the ELO functionality only to Designated Retail Orders is consistent with the Act. In particular, the Commission believes that the Exchange's proposal represents a reasonable effort to enhance the ability of retail trading interest to participate effectively on an exchange without discriminating unfairly against other

[56] *See supra* notes 6, 9, and 12. The IMC Letter broadly supported the comments articulated in FIA PTG Letter I.

[57] *See supra* notes 8 and 13.

[58] *See* Virtu Letter. Another commenter also stated its strong support for exchange innovation and providing additional choices for retail orders, but expressed concern that the Exchange did not propose strong enough penalties or controls to deter abuse on a real-time basis. *See* BATS Letter at 1.

[59] *See* FIA PTG Letter I at 3–4; Hudson River Trading Letter at 2; Citadel Letter I at 4; Citadel Letter II at 1 and 4; IMC Letter. Three commenters also expressed general concerns with respect to the potential expansion of the ELO functionality beyond retail orders, or noted that their concerns regarding the enhanced priority provided to retail orders under the proposal could be exacerbated in connection with any such expansion. *See* BATS Letter at 1; Citadel Letter I at 6; FIA PTG Letter I at 6. In response to these concerns, the Exchange noted that any future expansion of the ELO functionality beyond retail orders would be subject to a separate rule filing with the Commission. *See* Nasdaq Response Letter I at 7. *See also* Amendment No. 1.

[60] *See* Citadel Letter I at 4.

[61] *See* FIA PTG Letter I at 2–3; Citadel Letter I at 1–2; Citadel Letter II at 4–5.

[62] *See* Citadel Letter I at 3–7; Citadel Letter II at 4–5; FIA PTG Letter I at 1–3 and 5–6; FIA PTG Letter II at 1–2; Hudson River Letter at 2–3; IMC Letter.

[63] *See* Citadel Letter I at 3–4; Citadel Letter II at 4; FIA PTG Letter I at 5.

[64] *See* Citadel Letter I at 3.

[65] *See* Hudson River Trading Letter at 2–3.

[66] *See* Amendment No. 1.

[67] The Exchange also noted that the proposal would provide firms handling retail order flow with additional options to consider when determining the best way to represent and execute retail non-marketable limit orders. *See* Nasdaq Response Letter I at 3. In addition, the Exchange argued that the proposal would benefit publicly traded companies by promoting long-term investment in corporate securities. *See id.* at 2.

[68] *See* Amendment No. 1.

[69] *See* Notice, 81 FR at 87630; *see also* Amendment No. 1.

[70] *See* Nasdaq Response Letter I at 3 and 7; Nasdaq Response Letter II at 6–7.

[71] *See* Amendment No. 1. In particular, the Exchange stated its belief that markets and price discovery best function through the interactions of a diverse set of market participants. *See id.* The Exchange also stated its belief that robust price discovery is best served when there are many different perspectives on what the price and timing of a transaction should be. *See id.*

[72] *See* Nasdaq Response Letter I at 7.

market participants or inappropriately or unnecessarily burdening competition.

The Commission also does not share the concern expressed by some commenters that the proposed ELO functionality would have a detrimental market impact, such as by causing wider spreads. The Commission believes that the proposal could lead to increased or more immediate execution opportunities on the Exchange for resting retail orders. Moreover, given that the ELO attribute would only be available for Designated Retail Orders that are displayed, to the extent that Exchange members send more retail interest to the Exchange due to the availability of the ELO functionality, this could translate into more displayed retail interest on the Exchange. If the ELO functionality contributes to greater displayed liquidity on the Exchange, this may benefit all market participants by improving the price discovery process. In addition, due to the greater likelihood that retail orders would have priority at the prevailing inside market as a result of the ELO functionality, the proposal may in fact encourage tighter spreads and price formation because non-retail liquidity providers may need to quote more aggressively than the prevailing market in order to gain priority.

With regard to the Exchange's proposed eligibility requirements for the ELO attribute, four commenters expressed concern that the Exchange's initial proposal to monitor for compliance with the ELO eligibility requirements on a quarterly basis would be insufficient to appropriately surveil for misuse of the functionality.[73] Two of these commenters advocated for stronger or more immediate penalties for failure to comply with the ELO eligibility requirements.[74] Specifically, one commenter noted that the Exchange should monitor for and penalize abuse on an intra-quarter basis, and that the proposal should impose stronger penalties to deter abuse.[75] The other commenter opined that the Exchange should conduct weekly reviews and that a participant should be prohibited from utilizing the ELO functionality after two weeks of non-compliance.[76] Moreover, two commenters suggested that the Exchange should automate the one second resting time for ELO orders.[77]

In addition, three commenters argued that, under the proposed attestation requirement, a participant could game the 99% threshold by improperly inflating its number of compliant ELO orders, such as by submitting a large number of non-marketable ELO Orders, while impermissibly benefiting from its non-compliant 1% of ELO Orders.[78] One of these commenters also stated that the Exchange has not provided sufficient clarity regarding how it would calculate whether at least 99% of a member's ELO orders have rested unaltered on the Nasdaq book for a minimum of one second.[79] Further, two commenters expressed concern that the Exchange has not sufficiently limited the definition of ''Designated Retail Order'' for purposes of the proposed functionality to truly capture retail investors and to prevent misuse of the definition.[80]

In response, the Exchange amended its proposal to add additional detail regarding the ELO functionality, including how the proposed one-second timer would operate and how the 99% threshold would be calculated, as well as to shorten the review period for determining compliance with the eligibility requirements from a quarterly review to a monthly review period.[81] The Exchange also stated that it believes its proposed 99% threshold is appropriate, noting that the standard would require ''near perfect performance'' while allowing some flexibility in the event any unforeseen issues may result in *de minimis* non-compliance.[82] Further, the Exchange stated that it would establish new surveillances to detect potential misuse of the proposed functionality and noted that any attempt to game or otherwise abuse the ELO functionality would be a violation of the Exchange's rules and would subject the member to potential disciplinary action.[83]

In addition, the Exchange stated that the definition of Designated Retail Order is clear that the member entering such an order must have policies and procedures designed to ensure that the order complies with the requirements of the definition, including that the order originate from a natural person.[84] The Exchange also stated that the definition of Designated Retail Order allows for orders to originate from organizations in very limited circumstances.[85] The Exchange noted that, accordingly, it does not believe that there is latitude for a member to legally represent itself as eligible to enter an order with ELO priority when the order does not fit within the definition of Designated Retail Order.[86]

One commenter asserted that the increased frequency of monitoring proposed in Amendment No. 1 did not address its concerns with the Exchange's proposed monitoring and enforcement mechanisms.[87] This commenter stated that the Exchange has not offered any specifics about its proposed new surveillance mechanisms, and that the proposed penalties for misuse of the ELO attribute would not address the problem that other market participants that traded with non-compliant ELO orders were doing so under false assumptions.[88] Another commenter was supportive of the changes proposed in Amendment No. 1 (*i.e.,* shortening of the review period from quarterly to monthly; addition of details regarding how the ELO eligibility requirements operate; and development of new surveillances to detect potential misuse of the ELO attribute), but noted that the amendment and the Exchange's response did not fully alleviate its specific concerns regarding the definition of ''Designated Retail Order'' and the potential for gaming.[89] Similarly, one commenter noted that the Exchange has not explained how highly sophisticated day traders or other professional traders who are natural persons would be prevented from utilizing the ELO attribute.[90]

In reply, the Exchange noted that its proposed rules are properly designed to maintain compliance and that it would actively enforce the proposed rules to achieve compliance.[91] The Exchange also asserted that, because a market participant's broker-dealer would make the determination to enter an order as ELO, if a professional trader were to make consistent sub-second cancellations of its orders, presumably the broker-dealer would determine that orders entered by this customer are not best suited for ELO usage.[92] Finally, the Exchange reiterated that it would monitor behavior to ensure that market participants are not taking steps to

[73] *See* BATS Letter at 1–2; Citadel Letter I at 4; Themis Letter I at 2–3; Virtu Letter at 2.

[74] *See* BATS Letter at 2; Virtu Letter at 2.

[75] *See* BATS Letter at 1–2.

[76] *See* Virtu Letter at 2.

[77] *See* FIA PTG Letter I at 5; Themis Letter I at 3.

[78] *See* FIA PTG Letter I at 4; Citadel Letter I at 6; IEX Letter at 2.

[79] *See* FIA PTG Letter I at 4. *See also* IMC Letter.

[80] *See* FIA PTG Letter I at 4; Citadel Letter I at 4–5.

[81] *See* Nasdaq Response Letter I at 4 and Amendment No. 1. *See also supra* notes 20–28 and 38–43 and accompanying text.

[82] *See* Nasdaq Response Letter I at 4.

[83] *See id*. *See also supra* notes 44–45 and accompanying text.

[84] *See* Nasdaq Response Letter I at 6. *See also* Rule 7018 (defining ''Designated Retail Order'').

[85] *See* Nasdaq Response Letter I at 6.

[86] *See id*.

[87] *See* IEX Letter at 3.

[88] *See id*. at 2–3.

[89] *See* FIA PTG Letter II at 2.

[90] *See* Citadel Letter I at 4–5; Citadel Letter II at 3.

[91] *See* Nasdaq Response Letter II at 5–6.

[92] *See id*. at 6.

circumvent the letter, intent, or spirit of the rule.[93]

The Commission believes that the proposal is reasonably designed to ensure that the eligibility criteria for ELO usage are followed appropriately and to prevent fraudulent and manipulative acts and practices. In this regard, the Commission believes that the measures the Exchange has represented that it would take in order to address member non-compliance with the ELO eligibility criteria, and to surveil for, investigate, and punish misuse or gaming of the ELO functionality, are sufficient to encourage members to take all reasonable steps necessary to comply with the ELO eligibility criteria and provide sufficient deterrence to members who otherwise would abuse the functionality. In particular, the Commission notes that the Exchange has represented that it will carefully monitor its members' use of the ELO attribute on a monthly basis and not rely solely on a member's attestation with regard to ELO usage.[94] If a member does not comply with the ELO eligibility requirements, it will face suspension, and ultimately prohibition, from ELO usage.[95] The Exchange also has proposed to implement new surveillances that are designed to identify any potential misuse of the ELO attribute.[96] Any potentially violative conduct identified by the new surveillances would be investigated.[97] If the conduct is found to be violative, the offending member(s) would be subject to disciplinary action.[98] The Commission notes that disciplinary actions could result in penalties that are in addition to the suspension or prohibition of ELO usage.

With regard to the identification of ELO orders in Nasdaq's TotalView ITCH market data feed, four commenters expressed concern that the proposed ELO order identifier would reveal to market participants that certain orders are retail orders and must remain unaltered for at least one second.[99] Two of these commenters noted that, through the process of elimination, market participants also would be able to identify the preponderance of other quotes as coming from institutions or professional market makers.[100] One of these commenters also contended, however, that not tagging ELO orders would prevent liquidity providers from being able to identify their place in the queue, and that this uncertainty would lead to wider spreads and smaller order size.[101]

The Exchange stated that it does not believe that information leakage is a concern with respect to the current proposal because the ELO functionality would be available only to retail orders, and retail investor interest is most often represented by one order at a single price.[102] In addition, according to the Exchange, the identification of ELO orders in the Exchange's TotalView ITCH market data feed would provide transparency that would be valuable for the industry in evaluating the efficacy of the proposal.[103]

One commenter disagreed with the Exchange's argument that information leakage would not be a concern with respect to retail orders.[104] This commenter suggested that with knowledge that an order has selected the ELO attribute, a market participant may choose to route to that order last, knowing it would have to remain unaltered for at least one second, which could provide lower fill rates for ELO orders if the market participant is able to complete its order on other venues before routing to Nasdaq to interact with the ELO order.[105] This commenter also suggested that it is not clear how a retail investor could opt out of the ELO functionality in light of the fact that Nasdaq would permit Exchange members to designate all orders submitted through a particular entry port as ELO orders.[106] Two other commenters asserted that the Exchange's response does not address the concern that the ELO identifier could help market participants identify institutional investor orders.[107]

In reply, the Exchange asserted that the proposal would create transparency, not information leakage.[108] According to the Exchange, transparency differs from information leakage because it is purposeful, equally visible to all, and fully disclosed in public rule proposals, whereas information leakage is generally understood to be inadvertent, selective, and secretive.[109] The Exchange also reiterated that ELO is a voluntary feature, and its use can be quickly discontinued (and must be quickly discontinued if necessary to comply with the duty of best execution) if ELO orders produce negative results.[110]

In addition, the Exchange did not share the concern that the identification of ELO orders on the Exchange's data feed could affect routing strategies and lead to lower fill rates for ELO orders. According to the Exchange, most members utilize transaction cost analytic tools to evaluate and measure the related impact of an execution by weighing opportunity cost and market impact.[111] The Exchange stated that it expects that, as a result of ELO, Nasdaq execution quality metrics will improve over time and members will adjust routing behavior to ensure a higher degree of interaction with the Nasdaq book.[112]

The Exchange also stated that the identification of ELO orders would not allow market participants to say with any assurance that all other orders are of a particular participant type because not all retail orders will be designated as ELO.[113] The Exchange also noted that retail market participants tend to invest in certain heavily-traded securities, which do not lend themselves to easy identification of the nature of the market participant behind the order.[114]

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[93] *See id.*

[94] *See* Amendment No. 1. The attestation form for ELO usage would require the member to attest, among other things, that it has implemented policies and procedures that are reasonably designed to ensure that substantially all orders designated by the member as Designated Retail Orders comply with the requirements for such orders. *See* Notice, 81 FR at 87630 n.15; *see also* Amendment No. 1 and the designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[95] *See* Amendment No. 1; *see also* proposed new attachment B to the Exchange's designated retail order attestation form at Exhibit 3 to Amendment No. 1.

[96] *See* Amendment No. 1.

[97] *See id.*

[98] *See id.* and *supra* note 45 and accompanying text; *see also* Nasdaq Rule 9000 Series.

[99] *See* Citadel Letter I at 5; FIA PTG Letter I at 5; Themis Letter I at 1–2; IEX Letter at 1–2.

[100] *See* FIA PTG Letter I at 5; IEX Letter at 1–2.

[101] *See* FIA PTG Letter I at 5.

[102] *See* Nasdaq Response Letter I at 6–7. The Exchange acknowledged that information leakage could be a concern for some non-retail market participants who may build or unwind significant trading positions or engage in proprietary and confidential trading strategies, and that it may be an issue if the ELO attribute were to be applied as currently proposed to non-retail market participant orders. *See id.* at 6.

[103] *See id.* at 7.

[104] *See* Citadel Letter II at 2.

[105] *See id.*

[106] *See id. See also* FIA PTG Letter I at 3 (stating that the decision whether to classify order flow as ELO would be made by brokers, not their retail customers).

[107] *See* IEX Letter at 1–2; Themis Letter II at 2.

[108] *See* Nasdaq Response Letter II at 3–4.

[109] *See id.* at 4.

[110] *See id.*

[111] *See id.*

[112] *See id.*

[113] *See id.*

[114] *See id.* at 4–5. The Exchange also addressed the statement made by a commenter that consumers of the Exchange's proprietary data feeds already have information that can be used to identify which orders are submitted by electronic trading firms. The Exchange sought to correct this statement because its TotalView ITCH market data feed supports voluntary market marker identification or ''attribution,'' which is used to allow identification of market maker quotes and orders to meet their quoting obligations. According to the Exchange, this specification is not limited to any type of market participant, and is wholly voluntary. *See id.* at 7.

The Commission believes that market participants (retail and non-retail) are not likely to be detrimentally affected by other market participants' knowledge, via the ELO identifier, that certain orders originated from retail investors and must remain unchanged for at least one second. In particular, information leakage would likely not be a concern for retail interest because retail interest is most often represented by one order at a single price.[115] Also, the lack of an ELO attribute on any particular order would likely not allow market participants to say with any assurance that the order is of a particular participant type.[116] Moreover, the Commission does not believe that identification of ELO orders would necessarily result in market participants choosing to route to ELO orders last and therefore result in lower fill rates for these orders.[117] In addition, the Commission notes that the use of the ELO attribute is voluntary.

Finally, one commenter suggested that the proposal could create a conflict with FINRA Rule 5320, commonly known as the Manning rule.[118] According to the commenter, if a broker-dealer has routed a customer ELO order to Nasdaq but is required to pull that ELO order within one second and fill it to comply with its obligations under FINRA Rule 5320, that broker-dealer could become out of compliance with the ELO requirements and, as a result, its retail customer limit orders could be disadvantaged *vis-á-vis* other broker-dealers' retail customer limit orders.[119] This commenter also asserted that an Exchange member may receive a sub-second cancellation request from a customer, which could cause the member to fall under the 99% threshold and become ineligible to submit ELO orders on behalf of other customers.[120]

In response, the Exchange stated that the Manning obligations of a member using the ELO functionality would be no different from the obligations on an OTC market maker that internalizes orders and relies on the ''no-knowledge'' exception to separate its proprietary trading from its handling of customer orders.[121] The Exchange stated that this exception should be equally applicable to a member using the ELO functionality.[122] The Exchange also noted that it believes that retail investor limit orders that are posted on the Exchange will generally not be cancelled in a short period of time such as one second, because retail investors tend to have long-term investment goals and increasing the chance of receiving an execution is worth the risk of their order resting for one second or longer.[123]

In response to the Exchange, the commenter disputed the Exchange's assertion that the ''no knowledge'' exception to the Manning rule should address its concern, noting that it would persist where a firm may choose not to use the ''no-knowledge'' exception in order to provide higher fill rates or price improvement opportunities to its customers.[124] In reply, the Exchange noted that this scenario posited by the commenter is representative of a voluntary strategy used by the broker-dealer, and that the broker-dealer is not compelled to use ELO.[125]

The Commission does not believe that the commenter's assertion that broker-dealers could be conflicted in their ability to utilize the ELO functionality and also comply with their obligations under FINRA Rule 5320 is a basis for finding that the Exchange's proposal is inconsistent with the Act. As the Exchange noted, the ''no-knowledge'' exception to FINRA Rule 5320 could be applicable to an Exchange member using the ELO functionality.[126] To the extent firms choose not to rely on the ''no-knowledge'' exception, any limitation on such firms' ability to utilize the ELO functionality and resulting effect on their ability to compete with other broker-dealers that handle retail order flow would stem from the firms' business judgment, not the eligibility criteria for ELO attribute usage, which apply uniformly to any Exchange member seeking to utilize the ELO functionality.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[127] that the proposed rule change (SR–NASDAQ–2016–161), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[128]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14666 Filed 7–12–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81094; File No. SR–ISE–2017–72]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 5, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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 the Substance of the Proposed Rule Change

The Exchange proposes to mend its rules to extend the pilot program that eliminated position and exercise limits for physically-settled options on the SPDR S&P ETF Trust (''SPY'') (''SPY Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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

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[115] *See supra* note 102 and accompanying text.

[116] *See supra* notes 113–114 and accompanying text.

[117] *See supra* note 105 and accompanying text.

[118] *See* Citadel Letter I at 2. FINRA Rule 5320(a) states that ''[e]xcept as provided herein, a member that accepts and holds an order in an equity security from its own customer or a customer of another broker-dealer without immediately executing the order is prohibited from trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless it immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account.''

[119] *See* Citadel Letter I at 2.

[120] *See id.* at 5.

[121] *See* Nasdaq Response Letter I at 5. *See also* Supplementary Material .02 to FINRA Rule 5320.

[122] *See* Nasdaq Response Letter I at 5.

[123] *See id.* at 4. *See also* FIA PTG Letter I at 3 (stating that most retail participants do not cancel orders within one second).

[124] *See* Citadel Letter II at 3–4.

[125] *See* Nasdaq Response Letter II at 7.

[126] *See* Nasdaq Response Letter I at 5. *See also* Supplementary Material .02 to FINRA Rule 5320.

[127] 15 U.S.C. 78s(b)(2).

[128] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .01 to ISE Rule 412 and Supplementary Material .01 to ISE Rule 414 to extend the duration of the SPY Pilot Program through July 12, 2018. This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the liquidity of the option and the underlying security, (2) the market capitalization of the underlying security and the related index, (3) the reporting of large positions and requirements surrounding margin, and (4) financial requirements imposed by ISE and the Commission.

With this proposal, the Exchange submits the SPY report to the Commission, which report reflects, during the time period from May 2016 through May 2017, the trading of standardized SPY options with no position limits consistent with option exchange provisions.[3] The report was prepared in the manner specified in the Exchange's prior rule filing extending the SPY Pilot Program.[4] The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission to further evaluate the SPY Pilot Program and the effect it has on the market.

The Exchange represents that, should the Exchange propose to extend the pilot program, adopt on a permanent basis the pilot program or terminate the pilot program, it will submit a new pilot report at least thirty (30) days before the end of the extended SPY Pilot Program, which will cover the extended pilot period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the Pilot Report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the SPY Pilot Program. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program.

Conditional on the findings in the SPY Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the Extended Pilot, the position limits for SPY options would revert to limits in effect prior to the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed as a competitive response to similar filings that the Exchange expects to be filed by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply listed options class.

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 and Rule 19b–4(f)(6) thereunder.[7]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[8] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[9] 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 may

[3] The report is attached as Exhibit 3 [sic].

[4] *See* Securities Exchange Act Release No. 78295 (July 18, 2016), 81 FR 46728 (July 12, 2016) (SR–ISE–2016–16).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–72 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–72. 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 Web site (*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 Web site 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–72, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14663 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81090; File No. SR–NASDAQ–2017–063]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to extend for another twelve (12) month time period the pilot program to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (''SPY ETF'' or ''SPY''),[3] which list and trade under the symbol SPY (''SPY Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site 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 the Supplementary Material at the end of Chapter III, Section 7 (Position Limits), to extend the current pilot which expires on July 12, 2017 for an additional twelve (12) month time period to July 12, 2018 (''Extended Pilot''). This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits; (2) the liquidity of the option and the underlying security; (3) the market capitalization of the underlying security and the related index; (4) the reporting of large positions and requirements

[3] ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

surrounding margin; and (5) the potential for market on close volatility.

With this proposal, the Exchange submits the SPY report to the Commission, which report reflects, during the time period from May 2016 through May 2017, the trading of standardized SPY options with no position limits consistent with option exchange provisions.[4] The report was prepared in the manner specified in the Exchange's prior rule filing extending the SPY Pilot Program.[5] The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission additional time to further evaluate the pilot program and its effect on the market.

As with the original proposal to establish the SPY Pilot Program, the Exchange represents that a SPY Pilot Report will be submitted at least thirty (30) days before the end of the Extended Pilot and would analyze that period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the Extended Pilot. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration during the Extended Pilot. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program. Conditional on the findings in the SPY Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the Extended Pilot, the position limits for SPY options would revert to limits in effect prior to the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed as a competitive response to similar filings that the Exchange expects to be filed by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply listed options class.

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 and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[4] The report is attached as Exhibit 3 [sic].

[5] *See* Securities Exchange Act Release No. 78123 (June 22, 2016), 81 FR 42030 (June 28, 2016) (SR–NASDAQ–2016–084).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–063. 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 Web site (*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 Web site 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–063, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14659 Filed 7–12–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81103; File No. SR–NYSE–2017–07; SR–NYSEMKT–2017–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Granting Approval of Proposed Rule Changes, as Modified by Amendment No. 1, Amending NYSE Rule 36 and NYSE MKT Rule 36—Equities To Permit Exchange Floor Brokers To Use Non-Exchange Provided Telephones on the Floor

July 7, 2017.

I. Introduction

On March 31, 2017 and March 22, 2017, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'') (each of NYSE and NYSE MKT an ''Exchange''), respectively, filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule changes to permit Exchange floor brokers to use telephones not provided by the Exchange while on the Floor of the Exchange, and make related changes. The proposed rule changes were published for comment in the **Federal Register** on April 10, 2017.[3] On May 24, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule changes, disapprove the proposed rule changes, or institute proceedings to determine whether to disapprove the proposed rule changes.[5] On July 6, 2017, NYSE and NYSE MKT each filed Amendment No. 1 to its respective proposed rule change.[6] The Commission received no comments on the proposed rule changes. This order grants approval of the proposed rule changes, each as modified by the respective Amendment No. 1.

II. Description of the Proposed Rule Changes, as Modified by Amendment No. 1

NYSE and NYSE MKT propose to amend NYSE Rule 36 and NYSE MKT Rule 36—Equities, respectively, to permit Exchange floor brokers to use cellular or wireless telephones not provided by the Exchange while on the Floor[7] of the Exchange.

Currently, with Exchange approval, a floor broker may maintain a telephone line or use an Exchange authorized and Exchange provided portable telephone, which permits a non-member off the Floor to communicate with a member or member organization on the Floor. Any floor broker receiving orders from the public over portable telephones must be properly qualified under Exchange rules to conduct such public business. Exchange rules prohibit the use of a portable telephone on the Floor other than one authorized and issued by the Exchange, with a limited exception that allows members and employees of member organizations to use personal portable telephones while outside of the Trading Floor[8] but still on the Floor of the Exchange.[9]

NYSE and NYSE MKT propose to allow a floor broker to use a personal cellular or wireless telephone, rather

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 80374 (April 4, 2017), 82 FR 17306 (''NYSE Notice''); and 80375 (April 4, 2017), 82 FR 17302 (''NYSE MKT Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80753 (May 24, 2017), 82 FR 25032 (May 31, 2017). The Commission designated July 9, 2017 as the date by which it shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule changes.

[6] Each Amendment No. 1 clarified the expected implementation date of the respective proposed rule change. *See infra* note 29 and accompanying text. Amendment No. 1 is available on each Exchange's Web site. Each Amendment No. 1 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[7] The ''Floor'' means the trading floor of the Exchange and the premises immediately adjacent thereto, such as the various entrances and lobbies of the 11 Wall Street, 18 New Street, 8 Broad Street, 12 Broad Street, and 18 Broad Street buildings, and also means the telephone facilities available in these locations. *See* NYSE Rule 6; NYSE MKT Rule 6—Equities.

[8] The ''Trading Floor'' means the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the ''Main Room'' and the ''Buttonwood Room.'' The Trading Floor does not include the areas in the ''Buttonwood Room'' designated by the Exchange where NYSE Amex-listed options securities are traded (the ''NYSE Amex Options Trading Floor''), or the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor. *See* NYSE Rule 6A; NYSE MKT Rule 6A—Equities.

[9] *See* NYSE Rule 36, Supplementary Material .20(a) and .23; NYSE MKT Rule 36—Equities, Supplementary Material .20(a) and .23. NYSE MKT specifies that the Exchange will approve the maintenance of telephone lines only at the booth location of a member or member organization. *See* NYSE MKT Rule 36—Equities, Supplementary Material .20(a).

than an Exchange authorized and Exchange provided telephone, to communicate with non-members located off the Floor, subject to Exchange approval and specified registration requirements. The use of a cellular or wireless telephone on the Floor other than one registered with the Exchange would be prohibited, subject to the existing exception for use of cellular or wireless telephones outside of the Trading Floor.[10] NYSE and NYSE MKT would require floor brokers to register, prior to use, any cellular or wireless telephone to be used on the Floor by submitting a request in writing to the Exchange in an acceptable format. Floor brokers would be required to attest that they are aware of and understand the rules governing the use of telephones on the Floor.[11] No floor broker would be allowed to use any alternative cellular or wireless telephone on the Floor without prior Exchange approval.[12]

NYSE and NYSE MKT explained that NYSE Arca, Inc. (''NYSE Arca'') and NYSE MKT allow floor-based permit holders and their employees to use personal cellular telephones while on the exchanges' options trading floors.[13] The Exchanges' proposed restrictions (described further below) for the use of personal cellular telephones on their equity Floors are modeled after, with some exceptions, the rules of NYSE Arca and NYSE MKT concerning cellular telephone use on their options trading floors.[14]

Currently, when using an Exchange authorized and Exchange provided portable telephone, a floor broker: (i) May engage in direct voice communication from the point of sale on the Floor to an off-Floor location; (ii) may provide status and oral execution reports as to orders previously received, as well as ''market look'' observations as historically have been routinely transmitted from a broker's booth location; (iii) must comply with NYSE Rule 123(e) or NYSE MKT Rule 123(e)—Equities, as applicable; and (iv) must comply with all other rules, policies, and procedures of both the Exchange and the federal securities laws, including record retention requirements.[15] NYSE and NYSE MKT also require floor brokers and their member organizations to implement procedures designed to deter anyone calling their Exchange authorized and Exchange provided portable telephones from using caller ID block or other means to conceal telephone numbers.[16] Under the proposals, NYSE and NYSE MKT would continue to apply these requirements when a floor broker uses a personal cellular or wireless telephone on the Floor.[17]

NYSE and NYSE MKT currently prohibit floor brokers from using call-forwarding or conference calling, and Exchange authorized and Exchange provided portable telephones do not have these capabilities.[18] Under the proposals, NYSE and NYSE MKT would eliminate this restriction.[19] According to NYSE and NYSE MKT, the prohibition on forwarding calls prevented floor brokers from forwarding calls to a non-Exchange issued device, and this goal of preventing floor brokers from forwarding calls from an Exchange-issued device to a non-Exchange-issued device would no longer be relevant if the floor brokers were using personal cellular telephones.[20] NYSE and NYSE MKT also noted that records of conference calls would be captured pursuant to the proposed recordkeeping requirements for floor brokers that, as explained further below, would require floor brokers to maintain records of their telephone use and such records would be available to the Exchange upon request.[21]

Currently, NYSE MKT prohibits floor brokers from using Exchange authorized and Exchange provided portable telephones that they use to trade equities while on the NYSE Amex Options Trading Floor.[22] Under the proposal, NYSE MKT would retain this prohibition on using a telephone used to trade equities while on the options floor, thus requiring floor brokers to use a separate personal cellular or wireless telephone for equities versus options trading, as needed.[23]

Additionally, NYSE and NYSE MKT would require floor brokers to maintain records of the use of telephones and all other approved devices, including call logs, for at least three years.[24] The Exchange could deny, limit, or revoke registration of any device used on the Floor upon a determination that use of such device is inconsistent with the public interest, the protection of investors, or just and equitable principles of trade, or that such device has been or is being used to facilitate any violation of the Act, as amended, or

[10] *See* proposed NYSE Rule 36, Supplementary Material .20(a); proposed NYSE MKT Rule 36—Equities, Supplementary Material .20(a).

[11] *See* proposed NYSE Rule 36, Supplementary Material .21(a); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(a). NYSE and NYSE MKT submitted proposed attestations, each at Exhibit 5A. As explained in their proposals, according to NYSE and NYSE MKT, they would issue appropriate regulatory guidance regarding the use of personal cellular or wireless telephones on the Floor prior to the effective date of the proposed rule changes. *See* NYSE Notice, *supra* note 3, at 17309 n. 18; NYSE MKT Notice, *supra* note 3, at 17304 n. 15. According to NYSE and NYSEMKT, this regulatory guidance would specify where the written request to use a cellular or wireless telephone should be sent and that the floor broker must provide the telephone number of the telephone being registered. *See* NYSE Notice, *supra* note 3, at 17309 n. 17; NYSE MKT Notice, *supra* note 3, at 17304 n. 14. NYSE explained that, for NYSE, the attestation and regulatory guidance would supersede a previously developed acknowledgement form and previous guidance. *See* NYSE Notice, *supra* note 3, at 17309 n. 18.

[12] *See* proposed NYSE Rule 36, Supplementary Material .21(a); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(a).

[13] *See* NYSE Notice, *supra* note 3, at 17307–08; NYSE MKT Notice, *supra* note 3, at 17303.

[14] *See* NYSE Notice, *supra* note 3, at 17307–08; NYSE MKT Notice, *supra* note 3, at 17303. *See also* NYSE Arca Rule 6.2(h); NYSE MKT Rule 902NY(i). According to NYSE and NYSE MKT, they did not propose to add certain requirements applicable to the NYSE Arca and NYSE MKT options trading floors that, according to the Exchanges, are not compatible with current practices on the NYSE and NYSE MKT equities trading floors that allow floor brokers to speak to individuals off the Floor and provide certain status reports and observations. *See* NYSE Notice, *supra* note 3, at 17308 n. 14; NYSE MKT Notice, *supra* note 3, at 17303 n. 12.

[15] *See* NYSE Rule 36, Supplementary Material .21(a)(i)-(iv); NYSE MKT Rule 36—Equities, Supplementary Material .21(a)(i)–(iv). *See* also NYSE Rule 440; NYSE MKT Rule 440—Equities; 17 CFR 240.17a–3; 17 CFR 240.17a–4.

[16] *See* NYSE Rule 36, Supplementary Material .21(b); NYSE MKT Rule 36—Equities, Supplementary Material .21(b). Members and member organizations must make and retain records demonstrating compliance with such procedures. *See* NYSE Rule 36, Supplementary Material .21(b); NYSE MKT Rule 36—Equities, Supplementary Material .21(b).

[17] *See* proposed NYSE Rule 36, Supplementary Material .21(b)(i)–(iv) and (c); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(b)(i)–(iv) and (c).

[18] *See* NYSE Rule 36, Supplementary Material .21(a)(v); NYSE MKT Rule 36—Equities, Supplementary Material .21(a)(v).

[19] *See* proposed NYSE Rule 36, Supplementary Material .21(b); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(b).

[20] *See* NYSE Notice, *supra* note 3, at 17309; NYSE MKT Notice, *supra* note 3, at 17304.

[21] *See* NYSE Notice, *supra* note 3, at 17309; NYSE MKT Notice, *supra* note 3, at 17304.

[22] *See* NYSE MKT Rule 36—Equities, Supplementary Material .21(c).

[23] *See* proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(e). NYSE MKT has proposed to add a cross-reference to this provision in its rule concerning general use of personal portable or wireless communication devices by members and employees of member organizations. *See* proposed NYSEMKT Rule 36—Equities, Supplemental Material .23.

[24] *See* proposed NYSE Rule 36, Supplementary Material .21(d); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(d). Floor brokers would need to maintain the first two years of records in an accessible place. The Exchange would reserve the right to periodically inspect such records pursuant to NYSE Rule 8210 and NYSE MKT Rule 8210, respectively. *See* proposed NYSE Rule 36, Supplementary Material .21(d); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(d).

rules thereunder, or Exchange Rules.[25] Each Exchange states that it would assume no liability to floor brokers due to conflicts between telephones in use on the Floor or electronic interference problems resulting from the use of telephones on the Floor.[26]

NYSE and NYSE MKT propose to replace references to ''portable,'' ''personal portable,'' or ''Exchange authorized and provided portable'' telephones with ''cellular or wireless'' telephones.[27] Finally, NYSE and NYSE MKT propose to make minor technical changes to the rules.[28]

NYSE and NYSE MKT noted that they will announce the implementation date of the proposed rule changes in a Regulatory Bulletin at least 30 days in advance of such implementation date and that the proposed rules changes will become operative within 90 days of approval.[29] As of the implementation date, the Exchanges will no longer provide portable telephones to floor brokers.

II. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes, as modified by Amendment No. 1, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[30] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act,[31] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

NYSE and NYSE MKT propose to allow floor brokers to use personal cellular or wireless telephones on the Floor, instead of Exchange authorized and Exchange provided telephones, subject to Exchange approval and specified registration requirements. The Commission notes that NYSE Arca and NYSE MKT currently allow floor brokers to use personal cellular or wireless telephones on their options trading floors.[32] The Commission further notes that floor brokers' use of personal cellular or wireless telephones will be generally subject to the existing regulatory framework pertaining to use of portable telephones on the Floor, with certain additions and one change as described further below. With respect to NYSE MKT, the Commission notes that if a floor broker conducts business on both the equities floor and the options floor, the floor broker would be required to maintain a separate personal cellular or wireless telephone for use on each floor.

When first approving NYSE floor brokers' use of Exchange authorized and Exchange provided portable telephones on the Floor on a pilot basis, the Commission noted that the Exchange would have access to all telephone records and that proper surveillance is an essential component of any telephone access policy to an Exchange trading floor.[33] NYSE and NYSE MKT propose that floor brokers would be required to maintain records of telephone use, including logs of calls placed, and that the Exchange would have the right to periodically inspect such records. The Commission expects that NYSE and NYSE MKT will provide guidance to floor brokers concerning these proposed rule changes that delineates the floor brokers' recordkeeping requirements (including specific steps floor brokers should take to fully comply with such requirements) and then institute adequate surveillance procedures to monitor these efforts.

As the Commission originally stated when first approving floor brokers' use of Exchange authorized and Exchange provided portable telephones, surveillance procedures are essential, and should help to ensure that floor brokers who are interacting with the public are authorized to do so and that orders are being handled in compliance with Exchange rules.[34] These requirements remain the same notwithstanding that, as noted in the proposals, the Floor has changed and is now a largely automated trading environment.

Essentially, the Exchanges' proposals deal with changes in ownership of the portable telephones. NYSE and NYSE MKT have amended their rules to address these changes by adding floor broker recordkeeping and other requirements within the existing regulatory structure of NYSE Rule 36 and NYSE MKT Rule 36—Equities, respectively. The responsibility of the Exchanges, as self-regulatory organizations, to conduct surveillance and ensure compliance with their rules remains the same, regardless of who owns the telephones. The Exchanges have assured us that they can fulfill their duties despite the change in ownership of the telephones and, based on that representation, we are approving the proposed rule changes.[35]

NYSE and NYSE MKT propose specific registration requirements for the use of personal cellular or wireless telephones on the Floor, including an attestation that floor brokers are aware of applicable rules. The Exchange would have the ability to deny, limit, or revoke such registration.[36] The Commission believes that these registration requirements will allow the Exchanges to oversee floor brokers' use of personal cellular or wireless telephones. Further, NYSE and NYSE MKT propose to remove restrictions on the use of call forwarding and conference calling. The Commission believes that the initial reason for the restriction on the use of call forwarding is moot now that floor brokers will not use Exchange-issued telephones and the recordkeeping requirements described

[25] *See* proposed NYSE Rule 36, Supplementary Material .21(e); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(f).

[26] *See* proposed NYSE Rule 36, Supplementary Material .21(f); proposed NYSE MKT Rule 36—Equities, Supplementary Material .21(g). According to NYSE and NYSE MKT, rules of other exchanges similarly limit or cap liability for losses arising from the use of an exchange's facilities, systems, or equipment. *See* NYSE Notice, *supra* note 3, at 17310 n. 23; NYSE MKT Notice, *supra* note 3, at 17305 n. 20 (citing Nasdaq Rule 4626; NYSE Arca Options Rules 2.8 and 14.2; NYSE Arca Equities Rules 2.7 and 13.2).

[27] *See* proposed NYSE Rule 36, Supplementary Material .20, .21, and .23; proposed NYSE MKT Rule 36—Equities, Supplementary Material .20, .21, and .23.

[28] *See* proposed NYSE Rule 36, Supplementary Material .20(a); proposed NYSE MKT Rule 36—Equities, Supplementary Material .20(a) and .21(b)(ii).

[29] *See* Amendment No. 1, *supra* note 6.

[30] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[31] 15 U.S.C. 78f(b)(5).

[32] *See* NYSE Arca Rule 6.2(h); NYSE MKT Rule 902NY(i). *See also supra* notes 13 and 14 and accompanying text.

[33] *See* Securities Exchange Act Release No. 47671 (April 11, 203), 68 FR 19048, 19050 (April 17, 2003) (SR–NYSE–2002–11).

[34] *See id*. For example, among others, NYSE Rule 123(e) and NYSE MKT Rule 123(e)—Equities require members and member organizations to record the details of an order in an electronic system immediately upon receipt. *See* NYSE Rule 123(e); NYSE MKT Rule 123(e)—Equities.

[35] Notwithstanding any Regulatory Service Agreements with FINRA and the application of FINRA rules to floor brokers as registered broker dealers, the Exchanges retain legal responsibility for their regulation of their members on their Floor and their market and the performance of FINRA as a regulatory service provider. The Exchanges have represented that they can supervise and monitor the use of communications on their Floor and approval of the proposed rule changes is based, in part, on those representations and that the Exchanges' own surveillance and compliance responsibilities will be supported by that of FINRA. Each Exchange retains ultimate legal responsibility for the performance of its regulatory functions and to assure compliance by its members with the new rules. *See* 15 U.S.C. 78s(g).

[36] *See supra* note 25 and accompanying text.

above should allow the Exchanges to monitor the use of conference calls.

Based on the foregoing, the Commission believes that the proposed rule changes present no novel regulatory issues and therefore finds the proposed rule changes to be consistent with the Act. The Commission believes that it is reasonable for NYSE and NYSE MKT to allow floor brokers to use personal cellular or wireless telephones on their equities Floors, subject to Exchange approval, registration requirements, and a regulatory framework similar to that which currently exists for use of Exchange authorized and Exchange provided portable telephones on their equities Floors, and for the use of personal cellular telephones on options floors, in compliance with Exchange Rules and federal securities laws. The Commission expects that the Exchanges will monitor compliance with Exchange rules by floor brokers using personal cellular or wireless telephones on the Floor and will inform the Commission if they encounter unanticipated difficulties in enforcing their rules, and make any subsequent changes to their rules to address these issues, or otherwise find that the use of personal telephones raises regulatory concerns.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule changes (SR–NYSE–2017–07 and SR–NYSEMKT–2017–16), each as modified by their respective Amendment No. 1, be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14670 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81105; File Nos. SR–DTC–2017–003, SR–NSCC–2017–004, SR–FICC–2017–007]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Fixed Income Clearing Corporation; Order Approving Proposed Rule Changes, as Modified by Amendments No. 1, To Adopt the Clearing Agency Policy on Capital Requirements and the Clearing Agency Capital Replenishment Plan

July 7, 2017.

I. Introduction

On April 6, 2017, The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), and Fixed Income Clearing Corporation (''FICC,'' each a ''Clearing Agency,'' and collectively, the ''Clearing Agencies''), filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–DTC–2017–003, SR–NSCC–2017–004, and SR–FICC–2017–007, respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] On April 13, 2017, the Clearing Agencies each filed Amendment No. 1 to their respective proposed rule changes. Amendments No. 1 made technical corrections to each Exhibit 5 of the proposed rule change filings. The proposed rule changes, as modified by Amendments No. 1 (hereinafter, ''Proposed Rule Changes''), were published for comment in the **Federal Register** on April 25, 2017.[3] The Commission did not receive any comment letters on the Proposed Rule Changes. For the reasons discussed below, the Commission approves the Proposed Rule Changes.

II. Description of the Proposed Rule Changes

The Proposed Rule Changes are proposals by the Clearing Agencies to adopt the Clearing Agency Policy on Capital Requirements (''Policy'') and the Clearing Agency Capital Replenishment Plan (''Plan''), as described below.

A. Overview of the Policy

The Policy is designed to provide the Clearing Agencies with a framework for holding sufficient liquid net assets (''LNA'') funded by equity to cover potential general business losses, as required under applicable regulatory standards.[4] Pursuant to the Policy, the Clearing Agencies would hold LNA funded by equity in amounts designed to satisfy each Clearing Agency's General Business Risk Capital Requirement and Credit Risk Capital Requirement, as described below. The sum of a Clearing Agency's General Business Risk Capital Requirement and Credit Risk Capital Requirement constitutes its Total Capital Requirement. In addition to the Total Capital Requirement, the Policy would provide for the maintenance of an additional, discretionary amount of LNA funded by equity (*i.e.,* a ''Buffer''), also described below.

The Policy would describe how the Treasury group of The Depository Trust & Clearing Corporation (''Treasury'') [5] would monitor and manage the LNA funded by equity to satisfy the Total Capital Requirement at all times.[6] More specifically, each Clearing Agency would manage its LNA funded by equity in a number of ways, including (i) taking steps to maintain an appropriate and sustainable level of profitability; (ii) maintaining the Buffer in addition to the Total Capital Requirement; (iii) taking steps to increase the amount of LNA funded by equity when necessary; and (iv) maintaining a viable plan for the replenishment of equity through the Plan.[7] The Policy would further provide that DTCC would maintain insurance policies that cover certain potential Clearing Agency losses.[8]

1. General Business Risk Capital Requirement

According to the Policy, each Clearing Agency would calculate the General Business Risk Capital Requirement by first calculating three separate amounts related to general business risk. Specifically, each Clearing Agency would calculate an amount based on (i) the Clearing Agency's general business risk profile (''Risk-Based Capital Requirement''); [9] (ii) the time estimated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80491 (April 19, 2017), 82 FR 19127 (April 25, 2017) (SR–DTC–2017–003, SR–NSCC–2017–004, SR–FICC–2017–007) (''Notice'').

[4] Notice, 82 FR at 19127; *see also* 17 CFR 240.17Ad–22(e)(15).

[5] The Depository Trust & Clearing Corporation (''DTCC'') is the parent company of the Clearing Agencies. DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency.

[6] Notice, 82 FR 19128.

[7] Notice, 82 FR 19128–19129.

[8] Notice, 82 FR 19129.

[9] Each Clearing Agency would calculate its Risk-Based Capital Requirement by identifying the general business risk profile of that Clearing Agency through (i) analysis of business performance, key

Continued

to execute a recovery or orderly wind-down of the critical operations of the Clearing Agency (''Recovery/Wind-down Capital Requirement''); [10] and (iii) an analysis of the Clearing Agency's estimated operating expenses for a six-month period (''Operating Expense Capital Requirement'').[11] The Clearing Agencies would calculate each of these three amounts annually.[12] The greatest amount would constitute each Clearing Agency's General Business Risk Capital Requirement.[13]

The Policy would require the Clearing Agencies to hold an amount of LNA funded by equity to meet the General Business Risk Capital Requirement in cash and cash equivalents, which are highly liquid securities or bank deposits.[14] The Policy also would require each Clearing Agency to hold such amount in addition to the resources held by each Clearing Agency to cover certain credit and liquidity risks, as required under applicable regulatory standards.[15]

2. Credit Risk Capital Requirement

As a second component of the Total Capital Requirement, the Policy would provide that each Clearing Agency maintain a Credit Risk Capital Requirement, in accordance with each Clearing Agency's respective rules.[16] Specifically, the rules of each Clearing Agency provide, in part, that in the event of a participant [17] default, NSCC will apply at least 25 percent of its retained earnings, each division of FICC will apply up to 25 percent of its retained earnings, and DTC may apply its retained earnings.

The Credit Risk Capital Requirement is different than the general business risk regulatory requirement. Whereas the latter is designed to address general business risks, pursuant to Rule 17Ad–22(e)(15) under the Act,[18] the Credit Risk Capital Requirement is designed to help address potential losses due to a participant default that were not covered through margin requirements, which is not required by that rule.[19]

3. Buffer

In addition to calculating and maintaining the Total Capital Requirement, the Clearing Agencies would each calculate and maintain a Buffer (*i.e.,* a discretionary amount of additional LNA funded by equity).[20] The Buffer would generally equal approximately four to six months of operating expenses for the respective Clearing Agency based on various factors, including historical fluctuations of LNA funded by equity and estimates of potential losses from general business risk.[21] Treasury would reassess the Buffer periodically.[22]

B. Overview of the Plan

The Plan is designed to provide a viable mechanism for raising additional LNA funded by equity should a Clearing Agency's equity fall close to or below the amount required by the Total Capital Requirement.[23] The Plan would do so by establishing (i) roles and responsibilities for implementation of the Plan; (ii) circumstances triggering implementation of the Plan; (iii) guiding principles for implementation and execution of the Plan; and (iv) a description of the tools for replenishment.[24] The Plan would provide for annual review and approval by the respective Board of each Clearing Agency (or such committees as may be delegated authority by the respective Board).[25]

1. Roles and Responsibilities

Pursuant to the Plan, Treasury would be responsible for identify the triggering events for replenishing the LNA funded by equity. The Plan would outline the steps Treasury would take, including identifying the required equity, analyzing that Clearing Agency's financial outlook, and selecting the appropriate replenishment tools.[26] The Board of the affected Clearing Agency would be responsible for approving the proposal for implementation of the Plan, once triggered, and reviewing a report on the replenishment of the Plan.[27]

2. Triggers

Under the Plan, the circumstances that could trigger the Plan would be (i) when equity held by a Clearing Agency is at or below the Clearing Agency's Total Capital Requirement, plus the equivalent of one month of operating expenses of that Clearing Agency, as determined pursuant to the Policy; or (ii) the Board of a Clearing Agency determines that the Plan should be implemented.[28] The Plan would identify certain risks that, if realized, may cause these triggers to occur, including, for example, unexpected declines in revenue, disruptions to systems or processes that lead to large losses, or investment risks.[29]

3. Guiding Principles

The Plan would set forth a number of guiding principles. For example, the Plan would provide that Treasury should have the necessary flexibility

performance indicators, and market environment; and (ii) comparison of financial performance versus the Clearing Agency's budget. Notice, 82 FR 19128. Under the Policy, business risks that make up a Clearing Agency's general business risk profile would include, for example, the risk that revenues decline or expenses grow, the operational risks of deficiencies in its systems or disruptions to processing from internal or external events, or investment risk of loss of financial resources. *Id.* Treasury would then calculate the amount necessary to cover those potential general business losses so the Clearing Agency can continue operations and services if the losses materialize. *Id.* The sum of these amounts would constitute that Clearing Agency's Risk-Based Capital Requirement. *Id.*

[10] Each Clearing Agency would determine its Recovery/Wind-down Capital Requirement as the amount that each Clearing Agency's Board of Directors (''Board'') deems sufficient to ensure a recovery or orderly wind-down of critical operations and services of the Clearing Agency. Notice, 82 FR 19128. On an annual basis, and in order to assist each Board in making its determination, Treasury would calculate the greater of (i) the estimated amount sufficient to ensure a recovery of critical operations and services of the Clearing Agency; and (ii) the estimated amount sufficient to ensure an orderly wind-down of critical operations and services of the Clearing Agency. *Id.* Under the Policy, the Treasury would make these calculations in consultation with and reference to the plans maintained by the Clearing Agencies that are developed by the Clearing Agencies in compliance with Rule 17Ad–22(e)(3)(ii) under the Act. *Id.; see also* 17 CFR 240.17Ad–22(e)(3). The Commission granted the Clearing Agencies a temporary exemption from compliance with the recovery and wind-down plan requirements of Rule 17Ad–22(e)(3)(ii). *See* Securities Exchange Act Release No. 80378 (April 5, 2017) (S7–03–14). Until such time as the Clearing Agencies have recovery and wind-down plans that are approved by their Boards in anticipation of compliance with Rule 17Ad–22(e)(3)(ii), the Recovery/Wind-down Capital Requirement of each Clearing Agency would be assumed to be zero. Notice, 82 FR 19129. The General Business Risk Capital Requirement would therefore be the greater of the Risk-Based Capital Requirement and the Operating Expense Capital Requirement.

[11] Notice, 82 FR 19128.

[12] *Id.*

[13] Treasury would annually determine the Operating Expense Capital Requirement of each Clearing Agency by calculating the greater of (i) six times the average monthly operating expense for that Clearing Agency, over the prior twelve-month period, and (ii) a prospective operating expense estimate based on forecasted expense data. Notice, 82 FR 19129.

[14] *Id.*

[15] Notice, 82 FR 19128; *see also* 17 CFR 240.17Ad–22(e)(15)(ii)(A).

[16] *See* DTC Rule 4, GSD Rule 4, MBSD Rule 4, and NSCC Rule 3 and Addendum E, available at *http://dtcc.com/legal/rules-and-procedures.* Notice, 82 FR 19128.

[17] FICC and NSCC refer to their participants as ''Members,'' while DTC refers to its participants as ''Participants.'' These terms are defined in the rules of each of the Clearing Agencies. *Supra* note 16. In this filing ''participant'' or ''participants'' refers to both the Members of FICC and NSCC and the Participants of DTC.

[18] *See* 17 CFR 240.17Ad–22(e)(15).

[19] Notice, 82 FR 19128.

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] Notice, 82 FR 19129.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.*

and discretion, as appropriate, to implement the Plan, including the ability to determine, based on appropriate analysis, the sequence and combination of replenishment tools to be used.[30] Similarly, the Plan would provide that the prioritization of replenishment tools should be based on each tool's capacity, at the time the Plan is implemented, to return the affected Clearing Agency's LNA funded by equity to an appropriate level, in the shortest possible timeframe.[31]

4. Replenishment Tools

The Plan would identify the replenishment tools that may be utilized when the Plan is triggered, as well as the estimated timeframe for using each tool. Specifically, the Plan would provide for two types of replenishment tools: (i) Bridge financing, which would provide immediate financing but would be considered only an initial step in implementation of the Plan; and (ii) capital replenishment, which would provide the affected Clearing Agency with the required additional equity.[32]

According to the Plan, the replenishment tools could be effectuated by either DTCC or by a Clearing Agency directly.[33] Actions that may be taken by DTCC to provide needed equity to the affected Clearing Agency, in the form of bridge financing or a capital replenishment, include (i) contributing existing prefunded resources to the affected Clearing Agency; (ii) borrowing under an existing line of credit to which DTCC is a party; (iii) making a claim for insurance proceeds, when applicable; (iv) authorizing, issuing, and selling shares of common stock of DTCC to certain DTCC shareholders, pursuant to the terms and restrictions set forth in the DTCC Certificate of Incorporation and the DTCC Fourth Amended and Restated Shareholders Agreement; [34] (v) issuing or selling preferred stock by DTCC; or (vi) selling or divesting of assets or businesses.[35] Actions that may be taken by each Clearing Agency to raise the needed equity include increasing fees for services, when appropriate, or decreasing expenses.[36]

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *See* Securities Exchange Act Release No. 74142 (January 27, 2015), 80 FR 5188 (January 30, 2015); (SR–FICC–2014–810; SR–NSCC–2014–811; SR–DTC–2014–812).

[35] Notice, 82 FR 19129–19130.

[36] Notice, 82 FR 19130.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[37] After carefully considering the Proposed Rule Changes, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Clearing Agencies. Specifically, the Commission finds that the Proposed Rule Changes are consistent with Section 17A(b)(3)(F) of the Act [38] and Rule 17Ad–22(e)(15) under the Act.[39]

A. Consistency With Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of the Clearing Agencies be designed to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[40]

As described above, the Policy and the Plan are designed to provide a framework to help each Clearing Agency monitor, identify, and manage their respective general business risks. In addition, the Policy and the Plan, together, would require each of the Clearing Agencies to prepare, calculate, and maintain sufficient LNA funded by equity to cover the General Business Risk Capital Requirement, Credit Risk Capital Requirement, and the Buffer.

As detailed above, the Policy would provide that, in order to cover potential general business losses, the General Business Risk Capital Requirement would be calculated and maintained as the larger of (i) an amount calculated based on the Clearing Agency's general business risk profile; (ii) an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of the Clearing Agency; and (iii) an amount based on an analysis of the Clearing Agency's estimated operating expenses for a six-month period. The Policy would further require the Clearing Agencies to maintain the Credit Risk Capital Requirement to help address potential losses due to a participant default that were not covered through margin requirements, and the Buffer. The Policy would provide that the available LNA funded by equity would be continuously monitored and managed to ensure satisfaction of the Total Capital Requirement. Meanwhile, the Plan would provide a mechanism for raising additional LNA funded by equity should a Clearing Agency's equity fall close to or below the amount required by the Total Capital Requirement. Under such a framework, the Clearing Agencies could be better positioned to withstand stress caused by a general business loss or a participant default, and be better positioned to continue their critical operations and services, which helps to promote the prompt and accurate clearance and settlement of securities transactions.

Furthermore, as described above, by setting aside and maintaining the Total Capital Requirement for each Clearing Agency to absorb potential losses due to general business risk and a participant default, the Policy and the Plan are designed to help reduce the possibility of the Clearing Agencies' failure, mitigate the risk of financial loss contagion caused by the Clearing Agencies' failure, which could help further assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies, or for which they are responsible. Accordingly, the Commission believes that the Proposed Rule Changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.[41]

B. Consistency With Rule 17Ad–22(e)(15)

Rule 17Ad–22(e)(15) under the Act requires the Clearing Agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage their respective general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the Clearing Agencies can continue operations and services as a going concern if those losses materialize, including by satisfying Rule 17Ad–22(e)(15)(i) through (iii).[42]

Rule 17Ad–22(e)(15)(i) under the Act requires the Clearing Agencies to determine the amount of LNA funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.[43] In addition, Rule

[37] 15 U.S.C. 78s(b)(2)(C).

[38] 15 U.S.C. 78q–1(b)(3)(F).

[39] 17 CFR 240.17Ad–22(e)(15).

[40] 15 U.S.C. 78q–1(b)(3)(F).

[41] *Id.*

[42] 17 CFR 240.17Ad–22(e)(15).

[43] 17 CFR 240.17Ad–22(e)(15)(i).

17Ad–22(e)(15)(ii) requires, in part, that the Clearing Agencies hold LNA funded by equity equal to the greater of either (i) six months of the covered clearing agency's current operating expenses, or (ii) the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency.[44]

As described above, pursuant to the Policy, each Clearing Agency would be required to calculate and maintain their respective Total Capital Requirement. The Total Capital Requirement would be calculated by summing each Clearing Agency's respective General Business Risk Capital Requirement and Credit Risk Capital Requirement, and would be satisfied by LNA funded by equity. Specifically, as detailed above, the Policy would provide that the General Business Risk Capital Requirement would be calculated as the larger of (i) an amount calculated based on the Clearing Agency's general business risk profile, defined as its Risk-Based Capital Requirement; (ii) an amount based on the time estimated to execute a recovery or orderly wind-down of the critical operations of the Clearing Agency, defined as its Recovery/Wind-down Capital Requirement; and (iii) an amount based on an analysis of the Clearing Agency's estimated operating expenses for a six-month period, defined as its Operating Expense Capital Requirement.

By requiring each Clearing Agency to calculate its General Business Risk Capital Requirement as the larger amount of the Risk-Based Capital Requirement, the Recovery/Wind-down Capital Requirement, and the Operating Expense Capital Requirement, and by requiring the General Business Risk Capital Requirement with LNA funded by equity, the Commission believes that the Policy is consistent with Rule 17Ad–22(e)(15)(i) and (ii) under the Act.[45]

Rule 17Ad–22(e)(15)(ii) under the Act further requires, in part, that the LNA funded by equity held by the Clearing Agencies pursuant to Rule 17Ad–22(e)(15)(ii) shall be (A) in addition to resources held to cover participant defaults or other credits and liquidity risks; and (B) of high quality and sufficiently liquid to allow the Clearing Agencies to meet their current and projected operating expenses under a range of scenarios, including in adverse market conditions.[46]

As described above, the Policy would identify the General Business Risk Capital Requirement of each Clearing Agency as a separate component of each Clearing Agency's Total Capital Requirement, and would provide that LNA funded by equity as General Business Risk Capital Requirement be in addition to (i) LNA funded by equity held as that Clearing Agency's Credit Risk Capital Requirement; (ii) resources held by that Clearing Agency in compliance with Rule 17Ad–22(e)(4) under the Act for credit risk (which resources are also held in addition to that Clearing Agency's Credit Risk Capital Requirement); [47] and (iii) resources held by that Clearing Agency in compliance with Rule 17Ad–22(e)(7) under the Act for liquidity risk.[48] Additionally, the Policy would provide that the Clearing Agencies must meet their Total Capital Requirement by holding LNA funded by equity in cash, highly liquid securities, or bank deposits, to comply with Rule 17Ad–22(e)(15)(ii)(B). Moreover, the Policy would provide that the available LNA funded by equity would be continuously monitored and managed to ensure satisfaction of the Total Capital Requirement. Therefore, the Commission believes that adoption of the Policy is consistent with Rule 17Ad–22(e)(15)(ii)(A) and (B) under the Act.[49]

Rule 17Ad–22(e)(15)(iii) requires the Clearing Agencies to maintain a viable plan, approved by their Boards, and updated at least annually, for raising additional equity should the LNA funded by equity fall close to or below the amount required.[50] As described above, the Plan would designate to Treasury the responsibilities of monitoring the sufficiency of each Clearing Agency's LNA funded by equity and the triggering events for implementation of the Plan. The Plan also would provide tools to raise additional LNA funded by equity, in the event that such capital drops near or below the Total Capital Requirement. In addition, the Plan would provide that the respective Boards of the Clearing Agencies, or such committees as may be delegated authority by the respective Boards, would review and approve the Plan annually. Therefore, the Commission believes that adoption of the Plan is consistent with Rule 17Ad–22(e)(15)(iii) under the Act.[51]

III. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) [52] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule changes SR–DTC–2017–003, SR–NSCC–2017–004, and SR–FICC–2017–007 be, and hereby are, *approved.*[53]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14671 Filed 7–12–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81092; File No. SR–BOX–2017–22]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend IM–3120–2 to Rule 3120 To Extend the Pilot Program That Eliminated the Position Limits for Options on SPDR S&P 500 ETF (''SPY'') (''SPY Pilot Program'')

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2017, BOX Options Exchange LLC (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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend IM–3120–2 to Rule 3120 to extend the pilot program that eliminated the position

[44] 17 CFR 240.17Ad–22(e)(15)(ii).

[45] 17 CFR 240.17Ad–22(e)(15)(i), (ii).

[46] 17 CFR 240.17Ad–22(e)(15)(ii)(A), (B).

[47] 17 CFR 240.17Ad–22(e)(4).

[48] 17 CFR 240.17Ad–22(e)(7).

[49] 17 CFR 240.17Ad–22(e)(15)(ii)(A), (B).

[50] 17 CFR 240.17Ad–22(e)(15)(iii).

[51] *Id.*

[52] 15 U.S.C. 78q–1(b)(3)(F).

[53] In approving the Proposed Rule Changes, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[54] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

limits for options on SPDR S&P 500 ETF (''SPY'') (''SPY Pilot Program''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IM–3120–2 to Rule 3120 to extend the time period of the SPY Pilot Program,[3] which is currently scheduled to expire on July 12, 2017, through July 12, 2018.[4]

This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

In the proposal to extend the SPY Pilot Program, the Exchange stated that if it were to propose an extension, permanent approval or termination of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the SPY Pilot Program covering the period since the previous extension (the ''Pilot Report'').[5] Accordingly, the Exchange is submitting the Pilot Report detailing the Exchange's experience with the SPY Pilot Program. The Pilot Report is attached as Exhibit 3 to this filing [sic]. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. In extending the SPY Pilot Program, the Exchange states that if it were to propose another extension, permanent approval or termination of the program, the Exchange will submit another Pilot Report covering the period since the previous extension, which will be submitted at least 30 days before the end of the proposed extension. If the SPY Pilot Program is not extended or adopted on a permanent basis by July 12, 2018, position limits in SPY will revert to their Pre-Pilot levels. Extending the SPY Pilot Program will give the Exchange and Commission additional time to evaluate the pilot and its effect on the market.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs.

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 proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to allow the SPY Pilot Program to continue without interruption. Additionally, the Exchange expects other SROs will propose similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received 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) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] 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 may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[9]

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

[3] *See* Securities Exchange Act Release No. 67936 (September 27, 2012), 77 FR 60491 (October 3, 2012) (Notice of Filing and Immediate Effectiveness of SR–BOX–2012–013).

[4] *See* Securities Exchange Act Release No. 78247 (July 7, 2016), 81 FR 45348 (July 13, 2016) (Notice of Filing and Immediate Effectiveness of SR–BOX–2016–31).

[5] *Id.*

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–22. 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 Web site (*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 Web site 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–22, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14661 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81091; File No. SR–Phlx–2017–52]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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 the Substance of the Proposed Rule Change

The Exchange proposes to extend for another twelve (12) month time period the pilot program to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (''SPY ETF'' or ''SPY''),[3] which list and trade under the symbol SPY (''SPY Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Rule 1001 (Position Limits), to extend the current pilot which expires on July 12, 2017 for an additional twelve (12) month time period to July 12, 2018 (''Extended Pilot''). This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits; (2) the liquidity of the option and the underlying security; (3) the market capitalization of the underlying security and the related index; (4) the reporting of large positions and requirements surrounding margin; and (5) the potential for market on close volatility.

With this proposal, the Exchange submits the SPY report to the Commission, which report reflects, during the time period from May 2016 through May 2017, the trading of standardized SPY options with no position limits consistent with option exchange provisions.[4] The report was prepared in the manner specified in the Exchange's prior rule filing extending the SPY Pilot Program.[5] The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission additional time to

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

[4] The report is attached as Exhibit 3 [sic].

[5] *See* Securities Exchange Act Release No. 78124 (June 22, 2016), 81 FR 42008 (June 28, 2016) (SR–PHLX–2016–68).

further evaluate the pilot program and its effect on the market.

As with the original proposal to establish the SPY Pilot Program, the Exchange represents that a SPY Pilot Report will be submitted at least thirty (30) days before the end of the Extended Pilot and would analyze that period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the Extended Pilot. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration during the Extended Pilot. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program. Conditional on the findings in the SPY Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the Extended Pilot, the position limits for SPY options would revert to limits in effect prior to the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed as a competitive response to similar filings that the Exchange expects to be filed by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply listed options class.

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 and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–52. 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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

only one method. The Commission will post all comments on the Commission's Internet Web site (*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 Web site 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–52, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14660 Filed 7–12–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81096; File No. SR–DTC–2017–011]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Require Agents To Use the Automated Tender Offer Program To Process Consent Solicitations for Book-Entry Only Securities

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2017, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(6)[4] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by DTC would amend the Reorganizations Service Guide (''Guide'')[5] and the OA to establish the requirement that tabulation agents (''Agents'')[6] use the DTC Automated Tender Offer Program (''ATOP'') to process ATOP-eligible consent solicitation events (''Consent Solicitations'')[7] for book-entry-only Securities for which DTC holds the entire amount of the issue (''BEO Securities'')[8] including those in DTC's Fast Automated Securities Transfer program (''FAST'').[9] The Guide would also be amended to (i) reflect DTC's existing criteria for processing Consent Solicitations through ATOP, (ii) expand the use of ATOP to Consent Solicitations where blocking[10] is not required, and (iii) make ministerial changes to the Guide, as further described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposal would amend the Guide and the OA to establish the requirement that Agents use ATOP to process Consent Solicitations for BEO Securities. The Guide would also be amended to (i) reflect DTC's existing criteria for processing Consent Solicitations through ATOP, (ii) expand the use of ATOP to Consent Solicitations where Blocking is not required, and (iii) make ministerial changes to the Guide.

Background

A. Consent Solicitations

A Consent Solicitation is a request made for the affirmative consent of holders of securities pursuant to an indenture (''Holders''), to change the terms of such indenture.[11] In order to be processed through DTC, a consent solicitation cannot be linked to a security holder meeting, vote, or call for the objection of Holders while deeming those who do not object as consenting (a ''Negative Consent'').

B. Consent Solicitations Processed Outside of DTC

If a Consent Solicitation is not processed through ATOP, but rather is processed outside of DTC, the Agent sends a Consent Solicitation memorandum outlining the terms of the offer to the registered Holders. Cede, as a registered Holder of the subject security, will provide the Agent with a listing of Participants to whose Accounts the Securities are credited, together with an omnibus proxy for

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Each capitalized term not otherwise defined herein has the meaning set forth in the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx;* the Guide, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Reorganizations.pdf;* and in the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services)(''OA''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.*

[6] A tabulation agent is an agent designated by the soliciting party to coordinate the process of collecting consents.

[7] *See* discussion *infra* 6–7.

[8] There are some book-entry-only Securities for which DTC, through its nominee, Cede & Co. (''Cede'') is not the sole registered holder and holder of 100 percent of the issue, for example, if the Security is listed dually in the United States and another country. The proposed rule change does not apply to such Securities.

[9] BEO Securities are Eligible Securities for which (i) physical certificates are not available to investors and (ii) DTC, through Cede, holds the entire amount of the of the issue, either at DTC or through a FAST Agent in DTC's FAST program. BEO Securities are evidenced by one or more Global Certificates held at DTC or a FAST balance certificate, as applicable, representing the entire amount of the issue.

[10] To block securities, in this context, means to restrict transfer of Securities credited to the Account of a Participant as to which consent has been submitted (''Blocking'').

[11] In this context, the term ''indenture'' means any mortgage, deed of trust, trust or other indenture, or similar instrument or agreement (including any supplement or amendment to any of the foregoing), under which securities are outstanding or are to be issued, whether or not any property, real or personal, is, or is to be, pledged, mortgaged, assigned, or conveyed thereunder. 15 U.S.C. 77ccc (7).

those Participants. The Agent must reach out to the Participants outside DTC to solicit the consents. In order to consent, a Participant must mail a hard-copy letter of consent directly to the Agent. These letters of consent then have to be manually tabulated by the Agent and reconciled outside of DTC. In cases of Consent Solicitations with payment,[12] in addition to the consent letter, Agents also must receive payment instructions from each Participant that consents, and pay each consenting Participant the Consent Consideration, outside of DTC.

C. Consent Solicitations Processed Through ATOP

ATOP is a processing platform through which DTC processes certain voluntary reorganization events, including Consent Solicitations.[13] In order to process a Consent Solicitation through ATOP, an Agent must have, or enter into, a master agreement with DTC. The master agreement specifies the terms and conditions for handling corporate action events through ATOP, including that the Agent will accept electronic messages from DTC. The specific terms of each Consent Solicitation are provided in separate addenda to the master agreement.

After a Consent Solicitation event has been approved in ATOP, any Participant to whose Account Securities subject to the Consent Solicitation are credited can enter consent instructions on behalf of its clients via the DTC Participant Transactions Over PTS function (''PTOP'') [14] up until the expiration date of the offer.[15] When a Participant submits consent instructions through PTOP, DTC will electronically deliver the consent instructions to the Agent. DTC will Block the Securities credited to the Account of a Participant as to which consent has been submitted by transferring the Securities to an account maintained by DTC for the Agent until the expiration of the event. Typically, within three days of the expiration of the offer, the Securities as to which consent had been submitted will be unblocked and credited back to the free Account of the Participant. If it is a Consent Solicitation with Consent Consideration, the Agent will fund DTC, which will allocate received funds to the consenting Participants.

Processing Consent Solicitations through ATOP provides an electronic approach to the collection and transmission of consent instructions that: (i) Eliminates the highly manual process involved with collection and reconciliation of hard-copy instructions, thereby mitigating the risks of processing errors such as lost documents, misallocations to multiple payees, and the miscounting of hard-copy consent instructions; (ii) reduces the risk of a missed expiration by eliminating the delay caused by mailing hard copies; (iii) facilitates the allocation of Consent Consideration by allowing Agents to centralize payment through DTC; (iv) enhances ability for Agents to handle multiple elections for a single event; and (v) eliminates the potential for consents to exceed a Participant's total outstanding position.

Despite these efficiencies, certain Agents still use the manual and paper-driven process of Consent Solicitations for BEO Securities outside of DTC.

(ii) Proposed Rule Change

A. ATOP Requirement for Consent Solicitations for BEO Securities

Pursuant to the proposed rule change, DTC would require that when an Agent is soliciting consent solicitation events for BEO Securities in DTC's FAST Program, and where Cede is the registered holder of the security and holds 100% of the principal in a global note, the Agent is required to use the ATOP consent processing service to solicit and collect consents from participant holders, provided that the consent solicitation satisfies the criteria for ATOP processing. DTC believes that this requirement would centralize and streamline the Consent Solicitation process for Agents and Participants with respect to BEO Securities.

For issues for which Cede is not the sole registered holder and holder of 100 percent of the issue,[16] there would be no requirement to use ATOP for Consent Solicitations for that Security.

B. Criteria for Acceptance of a Consent Solicitation for ATOP

As discussed above, the proposed rule change would apply only to Consent Solicitations for BEO Securities that satisfy DTC's current criteria for processing a Consent Solicitation. In accordance with current practice, if a consent solicitation does not satisfy all of the below criteria, it cannot be processed through ATOP. The criteria are:

1. The consent solicitation must be made by the issuer.[17]

2. The consent solicitation must be for affirmative consent to modify the terms of the indenture.

3. The consent solicitation is not linked to a Holder meeting, vote, or Negative Consent.

4. Electronic transmission of consents does not violate the terms of the indenture.

5. Hard-copy documentation is not required to support the consent instructions.

6. Blocking:

a. If Blocking is a requirement of the consent solicitation and the event is predicated on record date, the record date must also be equal to the final expiration date of the consent solicitation.

b. If Blocking is a requirement of the consent solicitation, blocked positions are to be released no more than three (3) days after the expiration of the event and not exceeding forty-five (45) days from the date of the Consent Solicitation memorandum, unless there is an opportunity for a Participant to withdraw its consent instructions when the issuer extends the consent deadline beyond forty-five (45) days.

In addition to the above, there is currently a requirement that a Consent Solicitation processed through ATOP must require Blocking. Pursuant to the proposed rule change, DTC would expand ATOP to include Consent Solicitations that do not require Blocking.[18]

[12] Certain Consent Solicitations may include a payment for each valid consent (''Consent Consideration'').

[13] Until 2010, ATOP could only be used to process reorganizations events such as voluntary corporate actions, tenders and exchanges, cash conversions, and mandatory event processing of mergers with elections. In 2010, DTC filed a rule with the Commission allowing ATOP to be used to facilitate the processing of any corporate action event-type that DTC deems appropriate. Securities Exchange Act Release No. 62119 (May 18, 2010), 75 FR 29374 (May 25, 2010) (SR–DTC–2010–08). In 2013, DTC began offering the option to Agents to process Consent Solicitations via ATOP. Securities Exchange Act Release No. 69597 (May 16, 2013), 78 FR 30382 (May 22, 2013) (SR–DTC–2013–06); DTC Important Notice B#1076–13 (June 27, 2013). For a further description of ATOP, refer to Securities Exchange Act Release No. 33797 (March 22, 1994), 59 FR 14696 (March 29, 1994) (SR–DTC–93–11) (order modifying ATOP).

[14] PTOP is a function that is used by Participants to submit instructions for Voluntary Reorganization events generally.

[15] DTC distributes information to Participants regarding Consent Solicitations. Generally, this information is distributed through PTOP and RIPS (Reorganization Inquiry for Participants) functions of PTS (Participant Terminal System).

[16] *See supra* note 4.

[17] Third party solicitations, for example, those of activist bondholders, are handled by DTC's Shareholder Demand Process. *See* DTC's Proxy Services, *available at http://www.dtcc.com/matching-settlement-and-asset-services/issuer-services/proxy-services.*

[18] A Consent Solicitation would not require Blocking when the solicitation is being made to holders that had position as of a record date. DTC will Block positions only when Blocking is a requirement of the Consent Solicitation. To avoid Blocking positions (where there is a record date and Blocking is not a requirement of the Consent Solicitation), DTC will establish a position in a contra-CUSIP as of the record date (without

Continued

(iii) Amendments to the Guide and OAs

The proposed rule change would update both the Guide and the OA to (i) reflect DTC's existing criteria for processing Consent Solicitations through ATOP and (ii) expand the use of ATOP to Consent Solicitations where Blocking is not required. The proposed rule change would also make ministerial changes to the Guide, by correcting punctuation and capitalization, and by removing an incorrect reference to a hard-copy Proxy Record Date Notice, which is not supplied as part of Proxy Announcements and therefore should not be referenced in the Guide as a source of information.

Implementation Timeframe

The proposed rule change would be implemented 30 days after the date of filing, or such shorter time as the Commission may designate.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(F) of the Act.[19]

Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[20] By requiring Agents to process through ATOP Consent Solicitations for BEO Securities, the proposed rule change would promote the use of an existing automated, paperless process that (i) improves the efficiency of the collection of consents by centralizing the process at DTC, and (ii) mitigates the risks of manual processing errors such as lost documents, misallocations to multiple payees, and the miscounting of hard-copy consent instructions. Further, by permitting Consent Solicitations without a Blocking requirement to be processed by ATOP, the proposed rule change would further reduce the need for Agents to use a manual and paper-driven process, by allowing the use of the efficient, streamlined process of ATOP for Consent Solicitations without Blocking. In addition, by amending the Guide to reflect DTC's existing procedures around ATOP and Consent Solicitations, and to correct ministerial errors, the proposed rule change would clarify the procedures around processing Consent Solicitations through ATOP. Therefore, by adding efficiencies and mitigating risk to allow Agents, with less risk, to more quickly and effectively process Consent Solicitations for BEO Securities, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F), cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed rule change would not have an impact on competition with respect to access to ATOP. To use ATOP, an Agent does not have to be a Participant. A majority of existing Agents that handle Consent Solicitations are already electronically connected to ATOP.[21] Thus, ATOP is available on a broad basis to Agents, and the proposed rule change does not impact competition in this respect. However, DTC recognizes that (i) there are existing fees associated with processing Consent Solicitations through ATOP, and (ii) there may be Agents that prefer to handle Consent Solicitations for BEO Securities outside of DTC and therefore may need to adjust their practice to comply with the proposed rule change. Therefore, to the extent that there may be some impact on competition from requiring the use of ATOP, where such use would require Agents to pay the associated fees[22] or adjust certain practices, DTC believes there would be no significant burden on competition because the majority of Agents already use ATOP, and Agents would be charged fees that are not different from established published fees for processing Consent Solicitations through ATOP. DTC views any associated burden on competition as necessary and appropriate in furtherance of the purpose of the Act, because the proposed rule change would promote the consolidation of Consent Solicitation processing for BEO Securities into ATOP, adding efficiency and mitigating the risks posed by manually processing Consent Solicitations outside of DTC, thereby promoting the prompt and accurate clearance and settlement of securities transactions.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not solicited and does not intend to solicit comments regarding the proposed rule change. To the extent DTC receives written comments on the proposed rule change; DTC will forward such comments to the Commission. DTC has presented this proposal to several industry groups and received positive feedback.

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)[23] of the Act and Rule 19b–4(f)(6) thereunder.[24]

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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2017–011 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2017–011. This file

affecting positions on the target security) for the purposes of collecting, transmitting and processing consents, thereby allowing the target security for the consent to continue to trade and settle in the marketplace.

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] *Id.*

[21] If an Agent does not want to connect electronically to ATOP, it also would have the option to accept an emailed report generated by ATOP that provides the details on consents by Participants.

[22] *See* 2017 Fee Schedule, Corporate Actions, Agent Fees, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf;* Important Notice B#1076–13, *available at http://www.dtcc.com/~/media/Files/pdf/2013/6/27/1076-13.pdf.*

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

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 Web site (*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 Web site 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 DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2017–011 and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14665 Filed 7–12–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81095; File No. SR–ISE–2017–62]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Ports and Gateways That Members Use To Connect to the Exchange

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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: (1) Establish ports and gateways that members use to connect to the Exchange with the migration of the Exchange's trading system to the Nasdaq INET architecture, and (2) amend the Schedule of Fees to adopt fees for those ports and gateways.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to: (1) Establish ports and gateways that members use to connect to the Exchange with the migration of the Exchange's trading system to the Nasdaq INET architecture,[3] and (2) amend the Schedule of Fees to adopt fees for those ports and gateways. In particular, the Exchange proposes to establish and adopt fees for the following connectivity options that are available in connection with the re-platform of the Exchange's trading system: Specialized Quote Feed (''SQF''), SQF Purge, Dedicated SQF Host, Ouch to Trade Options (''OTTO''), Clearing Trade Interface (''CTI''), Financial Information eXchange (''FIX''), FIX Drop, Disaster Recovery, and Market Data. These port and gateway options, which are described in more detail below, are the same as those currently used to connect to the Exchange's affiliates, including Nasdaq GEMX, LLC (''GEMX''), Nasdaq Phlx LLC (''Phlx''), The Nasdaq Options Market LLC (''NOM''), and Nasdaq BX (''BX'').[4]

1. *Specialized Quote Feed Port.*

SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (*e.g.,* opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (*e.g.,* halts, resumes); (5) Execution Messages; (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

2. *SQF Purge Port.*

SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the market maker. Dedicated SQF Purge Ports enable market makers to seamlessly manage their ability to remove their quotes in a swift manner.

3. *Dedicated SQF Host.*

The Exchange will also offer dedicated gateways to facilitate member access to the Exchange. A Dedicated SQF Host is an optional offering available to Market Makers [5]—*i.e.,* Primary Market Makers (''PMMs'') and Competitive Market Makers (''CMMs'')—only for their SQF Port & SQF Purge Port connectivity. A Dedicated SQF Host provides the PMM or CMM with assurance that their SQF Port and SQF Purge Port connection to the Exchange resides on a host that is not shared with other PMMs and CMMs.

4. *Ouch to Trade Options Port.*

OTTO is an interface that allows market participants to connect and send orders, auction orders and auction responses into the Exchange. Data includes the following: (1) Options Auction Notifications (*e.g.,* Flash, PIM,

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03).

[4] *See* GEMX Schedule of Fees, IV. Access Services, Port Fees, 4. Ports; Phlx Pricing Schedule, VII. Other Member Fees, B. Port Fees; NOM Rules, Chapter XV Options Pricing, Sec. 3 NOM—Ports and other Services; BX Rules, Chapter XV Options Pricing, Sec. 3 BX—Ports and other Services.

[5] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (5) Option Trading Action Messages (*e.g.,* halts, resumes); (6) Execution Messages; (7) Order Messages (order messages, risk protection triggers or purge notifications).

5. *Clearing Trade Interface Port.*

CTI is a real-time clearing trade update message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; and (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; (vi) capacity.

6. *Financial Information eXchange Port.*

FIX is an interface that allows market participants to connect and send orders and auction orders into the Exchange. Data includes the following: (1) Options Symbol Directory Messages; (2) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (3) Option Trading Action Messages (*e.g.,* halts, resumes); (4) Execution Messages; (5) Order Messages (order messages, risk protection triggers or purge notifications).

7. *FIX Drop Port.*

FIX Drop is a real-time order and execution update message that is sent to a member after an order been received/modified or an execution has occurred and contains trade details. The information includes, among other things, the following: (1) Executions; (2) cancellations; (3) modifications to an existing order (4) busts or post-trade corrections.

8. *Disaster Recovery Port.*

Disaster Recovery ports provide connectivity to the exchange's disaster recovery data center in Chicago to be utilized in the event the exchange has to fail over during the trading day. DR Ports are available for SQF, SQF Purge, Dedicated SQF, CTI, OTTO, FIX and FIX Drop.

9. *Market Data Port.*

Market Data ports provide connectivity to the Exchange's proprietary market data feeds, including the Nasdaq ISE Real-time Depth of Market Raw Data Feed (''Depth of Market Feed''),[6] the Nasdaq ISE Order Feed (''Order Feed''),[7] the Nasdaq ISE Top Quote Feed (''Top Quote Feed''),[8] the Nasdaq ISE Trades Feed (''Trades Feed''),[9] and the Nasdaq ISE Spread Feed (''Spread Feed'').[10] Each of the feeds described above, with the exception of the Trades Feed, have previously been established as market data offerings of the Exchange,[11] and market participants are charged for subscriptions to these products.[12] The Trades Feed is a free market data product provided to subscribers of at least one of the fee liable market data products described above. In connection with the adoption of Market Data ports described above, the Exchange further proposes to establish the Trades Feed. Market Data ports are available via multicast, TCP, or as an intra-day snapshot, except that the intra-day snapshot option is available solely for the Depth of Market Feed, Top Quote Feed, and Spread Feed.

10. *Fees.*

Currently, the Exchange charges Market Makers an application programming interface (''API'') fee for connecting to the Exchange. Each Market Maker session enabled for quoting, order entry, and listening is billed at a rate of $1,000 per month, and allows the Market Maker to submit an average of up to 1.5 million quotes per day.[13] Market Makers must pay for a minimum of two of these sessions, and incremental usage above 1.5 million quotes per day results in the Market Maker being charged for an additional session. Market Makers that achieve Market Maker Plus [14] in 200 or more symbols (other than SPY) have their API fees capped at 200 quoting sessions per month. Market Makers that achieve Market Maker Plus in SPY receive credit for five quoting sessions. Market Makers that quote in all FX option products [15] do not have their FX option quotes counted towards the 1.5 million quote threshold, and receive additional credit for twelve quoting sessions. All credited sessions are applied after the 200 API session cap. Each Market Maker API session that is enabled for order entry and listening is billed at a rate of $750 per month, and each Market Maker API session that is enabled for listening only

[6] The Depth Feed, provides aggregate quotes and orders at the top five price levels on the Exchange, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for ISE traded options. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. In addition, subscribers are provided with total quantity, customer quantity (if present), price, and side (*i.e.,* bid/ask). This information is provided for each of the five indicated price levels on the Depth Feed. The feed also provides participants of imbalances on opening/reopening.

[7] The Order Feed provides information on new orders resting on the book. In addition, the feed also announces auctions. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. The feed also provides participants of imbalances on opening/reopening.

[8] The Top Quote Feed calculates and disseminates its best bid and offer position, with aggregated size (Total & Customer), based on displayable order and quote interest in the options market system. The feed also provides last trade information along with opening price, cumulative volume, high and low prices for the day. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status.

[9] The Trades Feed displays last trade information along with opening price, cumulative volume, high and low prices for the day. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status.

[10] The Spread Feed is a real-time feed that consists of options quotes and orders for all complex orders (*i.e.,* spreads, buy-writes, delta neutral strategies, etc.) aggregated at the top price level on both the bid and offer side of the market as well as all aggregated quotes and orders for complex orders at the top five price levels on both the bid and offer side of the market. In addition, the Spread Feed provides real-time updates every time a new complex limit order that is not immediately executable at the BBO is placed on the ISE complex order book. The Spread Feed shows bid/ask quote size for Customer and Professional Customer option orders for ISE traded options.

[11] *See* Securities Exchange Act Release Nos. 59949 (May 20, 2009), 74 FR 25593 (May 20, 2009) (SR–ISE–2007–97) (Depth Feed); 62117 (May 18, 2010), 75 FR 29381 (May 25, 2010) (SR–ISE–2010–34) (Order Feed); 65000 (August 1, 2011), 76 FR 47627 (August 5, 2011) (SR–ISE–2011–44) (Top Quote Feed and Spread Feed); 65295 (September 8, 2011). The other market data products in the Schedule of Fees are not subject to Market Data Port Fees.

[12] *See* Schedule of Fees, Section VIII, Market Data.

[13] Quoting sessions also support order entry and listening. The Exchange separately offers Market Maker API sessions for listening only ($175 per month per API), and order entry and listening ($750 per month per API).

[14] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer a specified percentage of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months. The specified percentage is at least 80% but lower than 85% of the time for Tier 1, at least 85% but lower than 95% of the time for Tier 2, and at least 95% of the time for Tier 3. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for Market Maker Plus, if doing so will qualify a Market Maker for Market Maker Plus.

[15] The complete set of FX option products offered is: NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK, SFC, AUM, GBP, EUU, and NDO.

is billed at a rate of $175 per month.[16] In addition, the Exchange charges Electronic Access Members (''EAMs'') that connect to the Exchange via API a session fee of $250 per month each for the first five sessions and $100 per month each additional session for connectivity to both ISE and the Exchange's affiliate, GEMX. And the Exchange charges EAMs that connect to the Exchange via FIX a session fee of $250 per month each for the first two sessions and $50 per month for each additional session for connectivity to both ISE and GEMX. Finally, the Exchange charges gateway fees that are $750 per gateway per month for shared gateways and $2,250 per gateway pair per month for dedicated gateways, in each case for connectivity to both ISE and GEMX.

With the re-platform of the Exchange's trading system, the Exchange will now be offering a new set of ports and gateways for connecting to the Exchange as described in more detail above. The Exchange therefore proposes to adopt fees for these connectivity options, which will initially be $0 per port per month.[17] The Exchange believes that it is appropriate to provide these connectivity options without charge during this initial migration period to avoid double charging members that are connected to both the current T7 trading system and the new INET trading system. In addition, adding these fees to the Schedule of Fees now will alert members to the fact that they will not be charged for access through these new connectivity options at this time. The current API/FIX session and gateway fees will remain in place as members are still using these connectivity options to connect to the Exchange during the migration of the Exchange's trading system to INET.[18] The Exchange also proposes to add the Trades Feed to the Schedule of Fees at a price of $0 per month. As explained earlier in the filing, the Trades Feed is a free offering of the Exchange; however, the Exchange believes that it would be beneficial to note this fee product in the Schedule of Fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed fees being adopted for INET ports and gateways, as well as the fees for the Trades Feed, are consistent with the provisions of Section 6 of the Act,[21] in general, and Section 6(b)(4) of the Act,[22] in particular, in that they are designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it establishes ports and gateways used to connect to the ISE INET trading system. The Exchange's offerings are changing with the re-platform as the ports and gateways used by INET differ from those used to connect to the T7 trading system. Market participants that connect to the INET trading system may use the following connectivity options mentioned above: SQF, SQF Purge, Dedicated SQF Hosts, OTTO, CTI, FIX, FIX Drop, Disaster Recovery, and Market Data. With the exception of Dedicated SQF Hosts, these connectivity options are the same as those currently used by the Exchange's affiliates, and therefore offer a familiar experience for market participants. The ports and gateways described in this filing provide a range of important features to market participants, including the ability to submit orders and quotes, receive market data, and perform other functions necessary to manage trading on the Exchange. The Exchange believes that filing to establish these port and gateway options will increase transparency to market participants regarding connectivity options provided by the Exchange.

With respect to Dedicated SQF Hosts, the Exchange notes that this offering is meant to be similar to a current offering of the ISE, which currently offers both shared gateways and dedicated gateways for members that desire their own dedicated gateways as a risk management alternative. Adding this new offering on the Exchange will allow members that currently use dedicated gateways on the Exchange's T7 trading system to continue to use a similar connectivity option with the migration to INET. The Exchange believes that market makers are the participants that are likely to benefit from dedicated gateways, and is therefore only offering dedicated gateways for the SQF interface. The Exchange does not believe that it is unfairly discriminatory to offer dedicated gateways only for SQF ports, which are only available to market makers. Other exchanges also have gateways that are restricted to market makers. The New York Stock Exchange, for example, offers DMM Gateways that are only available to their Designated Market Makers.[23] Currently, on the Exchange's T7 trading system, all of the market participants that use the dedicated gateway offering are market makers.[24] Dedicated SQF is designed to provide a more deterministic experience for ISE market makers when quoting on the Exchange by allowing them to better load balance their trading sessions, but does not provide any latency benefit when compared to using the shared gateways, which are built on identical hardware to the dedicated gateways. Market makers provide liquidity on the Exchange and have continuous quoting obligations[25] to the market that require the ability to quickly and efficiently interact with their quotes and orders. The Exchange therefore believes that these participants are likely to benefit from the load balancing provided by the dedicated gateways, which will aid market makers in their obligations to maintain tight markets—a benefit that ultimately accrues to the benefit of all market participants that trade on the Exchange. Based on the Exchange's experience with the T7 dedicated gateway offering, the Exchange does not believe that market participants using other protocols discussed in this filing are likely to use dedicated gateways, and the Exchange is therefore not offering such dedicated gateways for any of the other ports. Building a dedicated gateway offering for the other ports would require an additional technology investment. Since the only interest in such technology to date has

[16] A listener may engage in any activity except submit orders and quote, alter orders and cancel orders.

[17] Fees apply only to connectivity to the ISE INET trading system.

[18] The Exchange will eliminate current API/FIX session fees at a later date when those connectivity options are no longer available to members.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(4).

[23] *See* Securities Exchange Act Release No. 79748 (January 6, 2017), 82 FR 3828 (January 12, 2017) (SR–NYSE–2016–93).

[24] While some market makers have used the dedicated gateways for order entry sessions, the Exchange believes that the primary use of these dedicated gateways is for the firms' market making function. The Exchange has widely announced and talked to members about its plans to offer dedicated gateways for SQF, and no firms have requested that the Exchange provide dedicated gateways for the other ports.

[25] *See* ISE Rule 804(e).

been from the market making community, the Exchange has determined not to build technology that it believes other members are not likely to use.

The Exchange also believes that it is consistent with the protection of investors and public interest to establish the Trades Feed as this feed, which is currently provided free of charge, provides valuable trade information to subscribers. The Trades Feed designed to promote just and equitable principles of trade by providing all subscribers with data that should enable them to make informed decisions on trading in ISE options by using the data to assess current market conditions that directly affect such decisions. The market data provided by this feed removes impediments to, and is designed to further perfect, the mechanisms of a free and open market and a national market system by making the ISE market more transparent and accessible to market participants making routing decisions concerning their options orders. Furthermore, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to add the Trades Feed to the Schedule of Fees at a cost of $0 per month to alert members to the availability of this market data product. The Exchange notes that the Trades Feed is a current offering that the Exchange is adding to its Schedule of Fees at this time to increase transparency to members.

Finally, the Exchange believes that it is reasonable and equitable to adopt fees for the various ports and gateways used to connect to the Exchange's new INET trading system. As explained above, the ports and gateways that will be used to connect to the INET trading system are generally the same as those currently used by the Exchange's affiliates, and in the case of Dedicated SQF Hosts, mirrors a current offering of the Exchange. The Exchange has determined to offer these connectivity options free of cost for the time being in order to aid in the migration of the Exchange's trading system to INET technology. Adding these fees to the Schedule of Fees will clarify to members that they will not have to pay for access to both T7 and INET trading systems. The Exchange also does not believe that the proposed fee change is unfairly discriminatory as each of the proposed port and gateway fees are initially proposed to be free of charge for all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[26] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the Exchange is establishing the ports and gateways used to connect to the ISE INET trading system. In addition, the Exchange is adopting fees for access to these connectivity options, which will be offered initially free of cost to aid in the migration of the Exchange's trading system to Nasdaq INET technology. The Exchange does not believe that establishing these ports and gateways, or providing them to members free of charge, will have any competitive impact. Similarly, the exchange does not believe that establishing the Trades Feed, which is also a free offering and is being added to the Schedule of Fees, will have any competitive impact.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[27] and subparagraph (f)(6) of Rule 19b–4 thereunder.[28]

In its filing, ISE requested that the Commission waive the 30-day operative delay in order to enable the Exchange to establish ports and gateways for members to connect to the Exchange's INET trading system and access a related market data offering. The Commission believes that such waiver is consistent with the protection of investors and the public interest. ISE notes that members have received numerous communications indicating the availability of ISE INET ports and gateways and will be using these connectivity options as soon as symbols migrate to the INET architecture. Similarly, members have been made aware of the availability of the Trades Feed. To avoid disrupting member usage of ISE's connectivity and data options, the Commission designates the proposed rule change to be operative upon filing.[29]

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*. Please include File Number SR–ISE–2017–62 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–62. 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 Web site (*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

[26] 15 U.S.C. 78f(b)(8).

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 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.

[29] 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).

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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–62, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14664 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81102; File No. SR–NYSE–2017–31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the Listed Company Manual To Adopt Initial and Continued Listing Standards for Subscription Receipts

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given on June, 26, 2017, New York Stock Exchange LLC (''NYSE'' or the ''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 amend the Listed Company Manual (the ''Manual'') to adopt initial and continued listing standards for subscription receipts. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt initial and continued listing standards for the listing of subscription receipts (''Subscription Receipts'').

Subscription Receipts are a financing technique that has been used for many years by Canadian public companies. Typically, Canadian companies use Subscription Receipts as a means of providing cash consideration in merger or acquisition transactions. Subscription Receipts are sold in a public offering that occurs after the execution of an acquisition agreement. The proceeds of the Subscription Receipt offering are held in a custody account and, if the related acquisition closes, the Subscription Receipt holders receive a specified number of shares of the issuer. If the acquisition does not close, then the Subscription Receipts are redeemed for their original purchase price plus any interest accrued on the custody account. The benefit of Subscription Receipts to the issuer is that they provide a contingent form of financing that only becomes permanent if the acquisition is completed. By contrast, a company financing the cash consideration for an acquisition by means of a traditional equity or debt offering is at risk of having incurred unnecessary dilution of its shareholders or indebtedness if the related acquisition fails to close. Subscription Receipts provide investors with flexibility to elect to invest in the post-merger company and not in the company in its pre-merger form.

A number of Canadian issuers whose common stock is listed on the Exchange have approached the Exchange in recent years about the possibility of dually-listing on the Exchange Subscription Receipts that they planned to list in Canada. More recently, market participants have also inquired about the possibility of the use of Subscription Receipts as a fundraising alternative for U.S. domestic issuers. As a result of this interest, the Exchange is now proposing to adopt proposed Section 102.08 of the Manual as a listing standard for Subscription Receipts.

The Exchange will list Subscription Receipts pursuant to proposed Section 102.08 only if they meet the following requirements:

(a) The issuer must be an NYSE listed company that is not currently non-compliant with any applicable continued listing standard.

(b) The proceeds of the Subscription Receipts offering are designated solely for use in connection with the consummation of a specified acquisition that is the subject of a binding acquisition agreement (the ''Specified Acquisition'').

(c) The proceeds of the Subscription Receipts offering will be held in an interest-bearing custody account by an independent custodian.

(d) The Subscription Receipts will promptly be redeemed for cash (i) at any time the Specified Acquisition is terminated, or (ii) if the Specified Acquisition does not close within twelve months from the date of issuance of the Subscription Receipts, or such earlier time as is specified in the operative agreements. If the Subscription Receipts are redeemed, the holders will receive cash payments equal to their proportion share of the funds in the custody account, including any interest earned on those funds.

(e) If the Specified Acquisition is consummated, the holders of the Subscription Receipts will receive the shares of common stock for which their Subscription Receipts are exchangeable.

(f) At the time of initial listing, the Subscription Receipts must have a price per share of at least $4.00, a minimum total market value of publicly-held shares of $100 million, 1,100,000

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

publicly-held shares [3] and 400 holders of round lots (*i.e.,* 100 securities).

(g) The sale of the Subscription Receipts and the issuance of the common stock of the issuer in exchange for the Subscription Receipts must both be registered under the Securities Act.

The Exchange proposes to amend Section 802.01B to include continued listing standards applicable to Subscription Receipts listed under proposed Section 102.08. The Exchange will consider initiating suspension and delisting procedures when the number of publicly-held shares is less than 100,000 or the number of holders is less than 100. In addition, Subscription Receipts will be subject to immediate suspension and delisting if (i) the total market capitalization of the Subscription Receipts is below $15 million over 30 consecutive trading days (ii) the related common equity security ceases to be listed or (iii) the issuer announces that the Specified Acquisition has been terminated. An issuer of Subscription Receipts will not be eligible to follow the procedures outlined in Section 802.01 [sic] with respect to these criteria, and any such security will be subject to delisting procedures as set forth in Section 804.

In addition to the foregoing, Subscription Receipts will be subject to potential delisting for all of the reasons generally applicable to operating companies under Section 802.01. The Exchange notes that an issuer of Subscription Receipts may be subject to delisting at the time of closing of the related acquisition pursuant to the ''backdoor listing'' provisions of Section 703.08(E) of the Manual.

The Exchange proposes to amend Section 202.06 of the Manual to provide that whenever it halts trading in a security of a listed company pending dissemination of material news or implements any other required regulatory trading halt, the Exchange will also halt trading in any listed Subscription Receipt that is exchangeable by its terms into the common stock of such company.

The Exchange will monitor activity in Subscription Receipts to identify and deter any potential improper trading activity in such securities and will adopt enhanced surveillance procedures to enable it to monitor Subscription Receipts alongside the common equity securities into which they are convertible. Additionally, the Exchange will rely on its existing trading surveillances, administered by the Exchange, or the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[4]

Section 902.06 of the Manual sets forth listing fees for ''short-term'' securities, *i.e.,* securities with a life of seven years or less. As Subscription Receipts listed under proposed Section 102.08 would have a maximum life of 12 months, they would fall under Section 802.01B by its terms. For the avoidance of doubt, the Exchange proposes to amend Section 902.06 to make it explicit that it will apply to Subscription Receipts.

The Exchange also proposes to amend Section 902.06 to remove a reference to the annual fees charged prior to January 1, 2017, as that reference is now irrelevant.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act,[6] in particular in that it is designed 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 and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed listing standard is consistent with Section 6(b)(5) of the Exchange Act in that it contains requirements in relation to the listing of Subscription Receipts that provide adequate protections for investors and the public interest. In particular, the Exchange believes that investors are significantly protected by the requirements in the proposed rule that: (i) The proceeds of the Subscription Receipt offering must be held in an interest-bearing custody account controlled by an independent custodian pending consummation of the Specified Acquisition, (ii) the custody account must be liquidated and the funds distributed pro rata to the Subscription Receipt holders if the Specified Acquisition is not consummated within 12 months, and (iii) any interest earned on the custody account must be distributed pro rata to the Subscription Receipt holders upon such liquidation.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of security and that will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange believes that the proposed amendment to the fees set forth in Section 902.06 of the Manual is consistent with Section 6(b)(4) [7] of the Exchange Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges and is not designed to permit unfair discrimination among its members and issuers and other persons using its facilities. The proposed fees are the same as those applicable to other similar short-term securities as currently applied under Section 902.06.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The purpose of the proposed rule is to enhance competition by providing issuers and investors with an additional type of listed security that is not currently available on any domestic listing exchange and, as such, the Exchange does not believe it imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

[3] For purposes of the initial and continued listing requirements for Subscription Receipts, shares held by directors, officers, or their immediate families and other concentrated holdings of 10 percent or more are excluded in calculating the number of publicly-held shares.

[4] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–31 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–2017–31. 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 Web site (*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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–31, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14669 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81093; File No. SR–BX–2017–030]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2017, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to extend for another twelve (12) month time period the pilot program to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (''SPY ETF'' or ''SPY''),[3] which list and trade under the symbol SPY (''SPY Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site 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 Supplementary Material at the end of Chapter III, Section 7 (Position Limits) to extend the current pilot which expires on July 12, 2017 for an additional twelve (12) month time period to July 12, 2018 (''Extended Pilot''). This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits; (2) the liquidity of the option and the underlying security; (3) the market capitalization of the underlying security and the related index; (4) the reporting of large positions and requirements surrounding margin; and (5) the potential for market on close volatility.

With this proposal, the Exchange submits the SPY report to the Commission, which report reflects, during the time period from May 2016 through May 2017, the trading of standardized SPY options with no position limits consistent with option exchange provisions.[4] The report was prepared in the manner specified in the Exchange's prior rule filing extending the SPY Pilot Program.[5] The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension. The proposed extension will allow the Exchange and the Commission additional time to

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

[4] The report is attached as Exhibit 3 [sic].

[5] *See* Securities Exchange Act Release No. 78125 (June 22, 2016), 81 FR 42009 (June 28, 2016) (SR–BX–2016–030).

further evaluate the pilot program and its effect on the market.

As with the original proposal to establish the SPY Pilot Program, the Exchange represents that a SPY Pilot Report will be submitted at least thirty (30) days before the end of the Extended Pilot and would analyze that period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the Extended Pilot. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration during the Extended Pilot. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program. Conditional on the findings in the SPY Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the Extended Pilot, the position limits for SPY options would revert to limits in effect prior to the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed as a competitive response to similar filings that the Exchange expects to be filed by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply listed options class.

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 and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–030 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–030. 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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with 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.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

only one method. The Commission will post all comments on the Commission's Internet Web site (*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 Web site 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2017–030, and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14662 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81099; File No. SR–DTC–2017–012]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the DTC Settlement Service Guide in Order To Enhance the Memo Segregation Function in Connection With Deliveries Processed at DTC Related to the Direct Registration System

July 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2017, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4)[4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would revise the DTC Settlement Service Guide (''Service Guide'')[5] to enhance the Memo Segregation function (''Memo Seg'') with respect to its use by a Participant[6] in connection with Deliveries processed at DTC for transactions related to DRS,[7] as discussed below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Memo Seg allows a Participant to elect to protect a designated quantity of Securities in a given CUSIP (''Designated Quantity'') from unintended intraday Delivery at DTC.[8] When a Participant uses Memo Seg, if the total quantity of Securities in its account in a given CUSIP as a result of processing the Delivery would be equal to, or less than, the Designated Quantity, the Securities will not be Delivered, unless (a) the Participant elects to reduce the Designated Quantity or (b) the Designated Quantity is automatically reduced as a result of the Participant executing certain transactions (*e.g.,* withdrawals-by-transfer, certificate-on-demand withdrawals, and free Deliveries that are not identified as stock loan or stock loan returns).[9] This allows for automated processing of Securities, reducing manual entries of a Participant to maintain a certain quantity of Securities in an Account.

Proposed Rule Change

1. Proposal That Standing Instructions From a Receiving Participant Would Automatically Increase the Participant's Designated Quantity for Deliveries Associated With DRS Transactions

By providing standing instructions, a Receiving Participant may currently elect to have Deliveries of Securities for certain types of transactions automatically increase the Receiving Participant's Designated Quantity.[10] However, Securities transferred through DRS do not automatically increase the Receiving Participant's Designated Amount. The Regulatory and Clearance

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf.* Each term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx,* and the Service Guide.

[6] For the purposes of this proposed rule change, the term Participant refers to both Participants and Limited Participants that use the Direct Registration System (''DRS''), as discussed below. (Pursuant to Rule 2 ''. . . the term ''Participant'' shall include the term ''Limited Participant'' unless the (i) context otherwise requires or (ii) the Procedures otherwise provide.'' *See* Rule 2, *supra* note 5.)

[7] External to DTC, DRS allows an investor to hold a Security as the registered owner in electronic form on the books of a transfer agent rather than holding a certificate or holding indirectly through a Securities Intermediary (*e.g.,* a broker-dealer). DRS-related transactions between transfer agents and broker-dealers that are both Participants may be processed through DTC. (Typically, transfer agents are Limited Participants for purposes of processing DRS-related transactions.) *See* Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996) (SR–DTC–96–15).

[8] Participants that are registered broker-dealers use Memo Seg as a tool to maintain compliance with their obligations under Rule 15c3–3 (''Customer Protection Rule''). 17 CFR 240.15c3–3. The Customer Protection Rule requires, among other things, that broker-dealers maintain control of all fully-paid or excess margin Securities they hold for the accounts of customers. Compliance with those obligations by such broker-dealers is external to DTC. *See* Rule 2, *supra* note 5.

[9] *See* Service Guide, *supra* note 5, at 43–45.

[10] Transaction types are designated by the Delivering Participant using a reason code provided on a Delivery instruction (''Code'') (*e.g.,* stock loan transactions, DRS-related, etc.). The Receiving Participant may provide standing instructions regarding its Designated Quantity using an indicator (''Indicator''), as discussed in the Service Guide. By selecting Indicators numbered 1, 2, 3 and 6, the Participant provides a standing instruction for its Designated Quantity to automatically increase when it is the Receiving Participant of a transaction designated with an applicable Code. *See* Service Guide, *supra* note 5 at 43–45.

Committee of the Securities Operations Section of the Securities Industry and Financial Markets Association (''SIMFA'') has requested that DTC modify Memo Seg so that Deliveries of Securities processed through DRS would automatically increase the Receiving Participant's Designated Quantity.[11]

In this regard, pursuant to the proposed rule change, DTC would revise the Service Guide to allow a Receiving Participant in a DRS-related transaction to elect to have its Designated Quantity automatically increased when the Delivering Participant uses Codes 390 or 391.[12] A Receiving Participant would make this election by selecting Indicator 1.

2. Proposal To Update Memo Seg To Prevent Automatic Decrease of a Participant's Designated Quantity for DRS Reclaims

Pursuant to the Service Guide, a Free Delivery made by a Participant always reduces its Designated Quantity unless an exception for a given transaction type is expressly provided for. Pursuant to the proposed rule change, the text of the Service Guide would be revised so that a ''Reclaim'' of a DRS-related Free Delivery, where the related transaction is one that the Receiving Participant does not know (''DK'') (performed with Code 396), would not automatically reduce the Receiving Participant's Designated Quantity. This change would allow a Participant to exercise greater control in managing its Designated Quantity.

3. Proposal To Make Technical Changes to the Memo Seg Section of the Service Guide

The proposed rule change would also make technical changes to the Memo Seg section of the Service Guide to:

a. (i) Change references to ''you'' and ''your'' to ''a Participant,'' ''the Participant,'' ''Participants'' or ''its,'' as applicable and (ii) make grammatical and spacing changes to the text to provide enhanced clarity and readability with respect to provisions related to Memo Seg; and

b. Add an annex to the Service Guide containing the descriptions of the Codes listed in the ''Non-Optional Memo Segregation Transactions'' and the ''Optional Memo Segregation Indicators'' subsections.

[11] SIFMA has indicated that making this update to Memo Seg would strengthen the ability of Participants to control and protect customer fully-paid Securities transferred through DRS.

[12] Code 390 indicates a DRS-related Delivery and Code 391 indicates a DRS-related return of a Delivery.

Effective Date of Proposed Rule Change

The proposed rule change would be effective upon filing with the Commission.

2. Statutory Basis

Section 17A(b)(3)(F) [13] of the Securities Exchange Act of 1934 (''Act'') requires that the rules of the clearing agency be designed, *inter alia,* to protect investors and the public interest. DTC believes the proposed rule change is consistent with this provision because it would (i) reduce the risk of unintended Delivery of Securities that are the subject of a DRS-related transaction by a Participant that (A) elects to use applicable Indicators [14] or (B) enters a DK-related Reclaim in connection with a DRS-related Free Delivery and (ii) make other technical and grammatical changes to the text of the Service Guide that would provide enhanced clarity and readability with respect to provisions related to Memo Seg, as discussed above. Thus, by (i) reducing the risk of an unintended Delivery in this regard and (ii) making other technical and grammatical changes to the text of the Service Guide in order to provide enhanced clarity and readability with respect to provisions related to Memo Seg, DTC believes that the proposed rule change would help protect investors and the public interest, consistent with Section 17(b)(3)(F) of the Act, cited above.

The proposed rule change is also designed to be consistent with Rule 17Ad–22(e)(23) of the Act,[15] which was recently adopted by the Commission.[16] Rule 17Ad–22(e)(23) requires DTC, *inter alia,* to establish, implement, maintain and enforce written policies and procedures reasonably designed to publicly disclose all relevant rules and material procedures. The proposed rule change, as described above, would update the Service Guide to add descriptions of the Codes referenced in the Memo Seg section of the Service Guide, as discussed above. As such, DTC believes that the proposed rule change would promote disclosure of relevant rules and material procedures relating to Participants' use of Memo Seg, in accordance with the requirements of Rule 17Ad–22(e)(23), promulgated under the Act, cited above.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] DTC makes Memo Seg available as a tool for Participants, but does not monitor, and is not responsible for, any Participant's compliance with its obligation to protect customer fully-paid Securities. With respect to any Securities processed through DTC, DTC does not recognize (and is not required by its Rules and Procedures or applicable law to recognize) a distinction between proprietary and customer Securities.

[15] 17 CFR 240.17Ad–22(e)(23).

[16] The Commission adopted amendments to Rule 17ad–22, including the addition of new subsection 17ad–22(e), on September 28, 2016. *See* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14). DTC is a ''covered clearing agency'' as defined by new Rule 17ad–22(a)(5) and must comply with subsection (e) of Rule 17Ad–22. *Id.*

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact on competition because the proposed rule change would merely enhance the ability of any Receiving Participant to control Securities in its Account.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC. DTC management has discussed its intent to implement the proposed change with SIFMA and Participants.

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) [17] of the Act and paragraph (f) of Rule 19b–4 [18] 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2017–012 on the subject line.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

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–DTC–2017–012. 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090 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 DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–DTC–2017–012 and should be submitted on or before August 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14668 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81098; File No. SR–FINRA–2017–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Adopt Consolidated Registration Rules, Restructure the Representative-Level Qualification Examination Program, Allow Permissive Registration, Establish Exam Waiver Process for Persons Working for Financial Services Affiliate of Member, and Amend the Continuing Education Requirements

July 7, 2017.

I. Introduction

On March 28, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules relating to qualification and registration requirements in the Consolidated FINRA Rulebook,[3] restructure the current representative-level qualification examinations, create a general knowledge examination and specialized knowledge examinations, allow permissive registration, establish an exam waiver process for persons working for a financial services affiliate of a member, and amend certain Continuing Education (''CE'') requirements. The proposed rule change was published for comment in the **Federal Register** on April 10, 2017.[4] The Commission received 18 comments in response to the proposed rule change.[5] On May 12, 2017, FINRA extended the time period for the Commission to act on the proposal to July 7, 2017. On June 26, 2017, FINRA submitted a response to the commenter letters.[6] This order approves the proposed rule change.

II. Description of the Proposal [7]

FINRA proposes to adopt with amendments the NASD and Incorporated NYSE rules relating to qualification and registration as FINRA rules in the Consolidated FINRA Rulebook. In addition, FINRA proposes to restructure the current representative-level qualification examinations, create a general knowledge examination and specialized knowledge examinations and amend the CE requirements, among other changes.[8]

A. Registration Requirements

Proposed Rule 1210 provides that each person engaged in the investment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) rules incorporated from the NYSE (''Incorporated NYSE rules''). While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE. The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[4] Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336 (''Notice'').

[5] *See* letter from Inigo J. Bengoechea, Director, Program Recognition, and Daniel J. Larocco, Manager, Program Recognition, CFA Institute, dated March 30, 2017 (''CFA Letter''); letter from Nathaniel Downes, CFA Society, Los Angeles, dated April 4, 2017 (''CFA Los Angeles Letter''); letter from Roman Iwachiw, CFA Society, Washington, DC, dated April 7, 2017 (''CFA DC Letter''); letter from Pat Swanson, President, CFA Societies Texas, dated April 10, 2017 (''CFA Texas Letter''); letter from John Skinner, Atlanta Society of Finance and Investment Professionals, dated April 18, 2017 (''CFA Atlanta Letter''); letter from Matthew O'Hara, CFA Society, San Francisco, dated April 20, 2017 (''CFA San Francisco Letter''); letter from Douglas Jackman and Shannon Curley, CFA Society, Chicago, dated April 26, 2017 (''CFA Chicago Letter''); letter from Philip J. Taylor, New York Society of Security Analysts, Inc., dated April 28, 2017 (''CFA New York Letter''); letter from Jeanne W. Wolf, CFA Society, Boston, dated April 28, 2017 (''CFA Boston Letter''); letter from David T. Bellaire, Executive Vice President & General Counsel, Financial Services Institute, dated May 1, 2017 (''FSI Letter''); letter from Michelle Van Tassel, President, Association of Registration Management, Inc., dated May 1, 2017 (''ARM Letter''); letter from Kevin Zambrowicz, Managing Director & Associate General Counsel, Securities Industry and Financial Markets Association, dated May 1, 2017 (''SIFMA Letter''); letter from Mike Rothman, President, North American Securities Administrators Association, Inc., dated May 1, 2017 (''NASAA Letter''); letter from Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, dated May 1, 2017 (''Wells Fargo Letter''); letter from Norman L. Ashkenas, Richard J. O'Brien, and Jason Linde, Fidelity Investments, dated May 1, 2017 (''Fidelity Letter''); letter from Erwin J. Dugasz, Jr., Managing Counsel, Nationwide (''Nationwide Letter''); letter from Eric Arnold & Clifford Kirsch, Eversheds Sutherland (US) LLP, on behalf of the Committee of Annuity Insurers, dated May 1, 2017 (''CAI Letter''); and letter from Daniel Kosowsky, Chief Compliance Officer, Morgan Stanley & Co. LLC, and Rose-Anne Richter, Chief Compliance Officer, Morgan Stanley Smith Barney LLC, dated June 5, 2017 (''Morgan Stanley Letter'').

[6] *See* letter from Afshin Atabaki, Associate General Counsel, FINRA, to Brent J. Fields, Secretary, Commission, dated June 26, 2017 (''FINRA Response Letter'').

[7] FINRA states that the proposed rule change combines the proposals set forth in *Regulatory Notices* 09–70 (December 2009) and 15–20 (May 2015) with a few changes, including those made in response to comments. *See* Notice, *supra* note 4.

[8] In addition, FINRA proposes to delete certain Incorporated NYSE rules. FINRA states that these rules are substantially similar to the proposed rules, otherwise incorporated in the proposed rules, rendered obsolete by the proposed rules, or addressed by other rules. *See id.*

banking or securities business of a member must register with FINRA as a representative or principal in each category of registration appropriate to the person's functions and responsibilities as specified in proposed Rule 1220, unless exempt from registration pursuant to proposed Rule 1230. Proposed Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules.

B. Minimum Number of Registered Principals

Proposed Rule 1210.01 provides that each member, except a member with only one associated person, shall have at least two officers or partners who are registered as General Securities Principals, provided that, a member whose activities are limited in scope, may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities. The requirement that a member have a minimum of two principals shall apply to broker-dealers seeking to become FINRA members, as well as existing members.[9]

The proposed Rule also provides that an applicant for membership or existing member shall have at least one person: (i) Registered as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal; (ii) designated as a Principal Financial Officer; and (iii) designated as a Principal Operations Officer. An applicant for membership or existing member, if the nature of its business so requires, shall also have at least one person registered as: (1) An Investment Banking Principal; (2) a Research Principal; (3) a Securities Trader Principal; and (4) a Registered Options Principal.

C. Permissive Registrations

Proposed Rule 1210.02 provides that a member may make application for, or maintain the registration as a representative or principal of, any associated person of the member and any individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member. The proposed Rule also provides that individuals maintaining permissive registrations shall be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities.

In addition, proposed Rule 1210.02 provides that, consistent with the requirements of Rule 3110, members shall have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. The proposed rule further provides that, with respect to an individual who solely maintains a permissive registration(s), the individual's direct supervisor shall not be required to be a registered person. However, for purposes of compliance with Rule 3110(a)(5), a member shall assign a registered supervisor who shall be responsible for periodically contacting such individual's direct supervisor to verify that the individual is not acting outside the scope of his assigned functions. If such individual is permissively registered as a representative, the registered supervisor shall be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor shall be registered as a principal. However, the registered supervisor of an individual who solely maintains a permissive registration(s) shall not be required to be registered in the same registration category as the permissively-registered individual.

Proposed Rule 1210.02 expands the scope of permissive registrations by allowing any associated person (and any individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary) of a member to obtain and maintain any registration permitted by the member.[10] Individuals maintaining a permissive registration under the proposed rules would be considered registered persons and subject to all FINRA rules.[11]

D. Qualification Examinations and Waivers of Examinations

Proposed Rule 1210.03 provides that, before the registration of a person as a representative can become effective under proposed Rule 1210, the person must pass the Securities Industry Essentials (''SIE'') and an appropriate representative qualification examination as specified in proposed Rule 1220(b). In addition, before the registration of a person as a principal can become effective under proposed Rule 1210, the person must pass an appropriate principal qualification examination as specified in proposed Rule 1220(a).

The proposed Rule further provides that, if the job functions of a registered representative, other than an individual registered as an Order Processing Assistant Representative or a Foreign Associate, change so as to require the person to register in another representative category, the person shall not be required to pass the SIE. Rather, the registered person would need to pass only an appropriate representative qualification exam as specified in proposed Rule 1220(b).

Proposed Rule 1210.03 reflects the proposed restructuring of the representative-level qualification exam program, whereby representative-level registrants would be required to take a general knowledge exam (the SIE) and a specialized knowledge exam appropriate to their job functions at the firm with which they are associating.[12] FINRA states that it will file the SIE and the specialized knowledge exams, including the content outlines for each examination, with the Commission separately.[13] FINRA also states that individuals who are registered on the effective date of the proposed rule change will be eligible to maintain those registrations without being subject to any additional requirements.[14]

In addition, proposed Rule 1210.03 expands the pool of individuals eligible to take the SIE by providing that all persons are eligible to take the SIE.[15]

[9] Proposed Rule 1210.01 also provides that, pursuant to the Rule 9600 Series, FINRA may waive the requirement that a member have a minimum of two principals in situations that indicate conclusively that only one person associated with an applicant for membership or existing member should be required to register as a principal.

[10] FINRA states that it is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require such person to be registered. Second, FINRA believes the proposal would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, FINRA believes that allowing registration in additional categories will encourage greater regulatory understanding. Fourth, FINRA states the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations but not others who are equally engaged in the member's business. *See* Notice, *supra* note 4.

[11] FINRA states that it is also considering enhancements to the CRD system and BrokerCheck to identify whether a registered person is maintaining only a permissive registration and to disclose the significance of such permissive registration to the general public. *See id.*

[12] Proposed Rule 1220 sets forth each registration category and applicable qualification exam. For a more in depth discussion of the SIE and the revised representative-level qualification exams, *see* Notice, *supra* note 4.

[13] *See id.* FINRA states that it is also evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time. *See id.*

[14] For a more detailed discussion of the effect of the proposal on individuals registered before the effective date of the proposed rule change, *see id.*

[15] FINRA believes that expanding the pool of individuals who are eligible to take the SIE would

Passing the SIE alone, however, would not qualify an individual for registration with FINRA; the individual would also have to pass an applicable representative or principal qualification exam and complete the other requirements of the registration process.[16]

E. Requirements for Registered Persons Functioning as Principals for a Limited Period

Proposed Rule 1210.04 provides that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a period of 120 calendar days before passing an appropriate principal qualification exam, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation and has fulfilled all applicable prerequisite registration and exam requirements, as well as paid applicable fees, before designation as a principal. However, in no event may such person function as a principal beyond the initial 120 calendar day period without having successfully passed an appropriate principal qualification exam. The requirements above apply to designations to any principal category, including those categories that are not subject to a prerequisite representative registration requirement. Further, a person registered as an Order Processing Assistant Representative or a Foreign Associate shall not be eligible to be designated as a principal under the rule.

In addition, proposed Rule 1210.04 provides that a member may designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for a period of 120 calendar days before passing an appropriate principal qualification exam. However, in no event may such person function in such other principal category beyond the initial 120 calendar day period without having successfully passed an appropriate qualification exam.

F. Rules of Conduct for Taking Exams and Confidentiality of Exams

Proposed Rule 1210.05 provides that associated persons taking the SIE shall be subject to the SIE Rules of Conduct and associated persons taking any representative or principal exam shall be subject to the Rules of Conduct for representative and principal examinations. A violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person shall be deemed to be a violation of proposed Rule 2010. If FINRA determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the exam and may be subject to disciplinary action by FINRA.

In addition, the proposed Rule provides that individuals taking the SIE who are not associated persons shall agree to be subject to the SIE Rules of Conduct. If FINRA determines that such individuals cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit the results of the examination and may be prohibited from retaking the SIE.

Further, proposed Rule 1210.05 provides that (i) FINRA considers all of its qualification examinations content to be highly confidential; (ii) the removal of exam content from an exam center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification exam, or any other use that would compromise the effectiveness of the exams and the use in any manner and at any time of the questions or answers to the exams is prohibited and deemed to be a violation of proposed Rule 2010; and (iii) an applicant cannot receive assistance while taking the exam and shall certify that no assistance was given to or received by the applicant during the exam.

G. Waiting Periods for Retaking a Failed Examination

Proposed Rule 1210.06 provides that any person who fails to pass a qualification exam prescribed by FINRA shall be permitted to take that exam again after a period of 30 calendar days has elapsed from the date of the person's last attempt to pass that exam, except that any person who fails to pass an exam three or more times in succession within a two-year period shall be prohibited from again taking that exam until 180 calendar days has elapsed from the date of the person's last attempt to pass that exam. The proposed Rule provides that the waiting periods for retaking a failed exam apply to the SIE and the representative and principal exams, and that individuals taking the SIE who are not associated persons must agree to be subject to the same waiting periods for retaking the SIE.

H. Continuing Education Requirements

Proposed Rule 1210.07 provides that all registered persons, including those individuals who solely maintain permissive registrations pursuant to proposed Rule 1210.02, shall satisfy the Regulatory Element of CE[17] as specified in proposed Rule 1240(a).

In addition, the proposed Rule provides that if a person registered with a member has a CE deficiency with respect to that registration as provided under proposed Rule 1240(a), such person shall not be permitted to be registered in another registration category under proposed Rule 1220 with that member or to be registered in any registration category under proposed Rule 1220 with another member, until the person has satisfied the deficiency.

FINRA is proposing to adopt Rule 1210.07 to codify current practice and to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element of CE, as specified in proposed Rule 1240.[18] FINRA is also proposing to make corresponding changes to proposed Rule 1240. FINRA states that individuals who have passed the SIE but not a representative- or principal-level exam and do not hold a registered position would not be subject to any CE requirements.

I. Lapse of Registration and Expiration of SIE

As is currently the case, proposed Rule 1210.08 provides that the representative- and principal-level registrations would be subject to a two-year expiration period. It also establishes a four-year expiration period for the SIE.

Proposed Rule 1210.08 also provides that any person whose registration has been revoked pursuant to Rule 8310 shall be required to pass a principal or

enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge before submitting a job application and would allow for more flexibility and career mobility within the securities industry. *See id.*

[16] Proposed Rule 1210.03 also provides that, pursuant to the Rule 9600 Series, FINRA may, in exceptional cases and where good cause is shown, waive the applicable qualification exam(s) and accept other standards as evidence of an applicant's qualifications for registration, subject to certain conditions.

[17] Pursuant to Rule 1250, the CE requirements applicable to registered persons consist of a Regulatory Element and a Firm Element. As discussed below, as part of this proposal, FINRA is proposing to renumber Rule 1250 as Rule 1240.

[18] FINRA states that it believes all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. *See* Notice, *supra* note 4.

representative qualification examination appropriate to his category of registration as specified in proposed Rule 1220(a) or Rule 1220(b), respectively, to be eligible for registration with FINRA.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member

Proposed Rule 1210.09 provides that, upon request by a member, FINRA shall waive the applicable qualification exam(s) for an individual designated with FINRA as working for a financial services industry affiliate of a member if the following conditions are met: (i) Before the individual's initial designation, the individual was registered as a representative or principal with FINRA for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual; (ii) the waiver request is made within seven years of the individual's initial designation; (iii) the initial designation and any subsequent designation(s) were made concurrently with the filing of the individual's related Form U5; (iv) the individual continuously worked for the financial services industry affiliate(s) of a member since the individual's last Form U5 filing; (v) the individual has complied with the Regulatory Element of CE as specified in proposed Rule 1240(a); and (vi) the individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while the individual was designated as eligible for a waiver. As used in proposed Rule 1210.09, a ''financial services industry affiliate of a member'' is a legal entity that controls, is controlled by, or is under common control with a member and is regulated by the Commission, Commodity Futures Trading Commission, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

FINRA states that the proposed Rule will provide a process whereby individuals who would be working for a financial services industry affiliate of a member would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for the waiver as set forth in the rule.[19]

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the criteria set forth in the rule, the member with which the individual is registered would notify FINRA of the designation and concurrently file a full Form U5 terminating the individual's registration. Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. An individual designated as eligible for the waiver would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member.

Upon registering an eligible person pursuant to the waiver process set forth in the rule, a firm would file a Form U4 requesting the appropriate registration(s) for the individual and submit an exam waiver request to FINRA,[20] which would include a representation that the individual is eligible for a waiver based on the conditions set forth in the rule. FINRA would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request.[21] A member other than the member that initially designated an individual as an eligible person may request a waiver for the individual, more than one member may request a waiver for an individual during the seven-year period, and a member may submit multiple waiver requests for the same individual during the course of the seven-year period.[22]

K. Status of Persons Serving in the Armed Forces of the United States

Proposed Rule 1210.10 addresses the status of current and former registered persons serving on active duty in the Armed Forces of the United States (''U.S. Armed Forces''). Among other things, the rule permits a registered person of a member who volunteers for or is called to active duty in the U.S. Armed Forces to be registered in an inactive status and remain eligible to receive ongoing transaction-related compensation. In addition, the proposed rule provides that FINRA will defer the lapse of registration requirements and the SIE for a person who was formerly registered with a member that volunteers for or is called to active duty in the U.S. Armed Forces at any time within two years after the date the person ceased to be registered with a member or for a person that is placed on inactive status while serving in the U.S. Armed Forces who ceases to be registered with a member.

L. Impermissible Registrations

Proposed Rule 1210.11 provides that members shall not register or maintain the registration of any person unless consistent with the requirements of proposed Rule 1210. FINRA states that proposed Rule 1210.11 replaces certain provisions of current NASD Rules 1021(a) and 1031(a) that prohibited a member from maintaining certain registrations and that would conflict with the permissive registration regime under proposed Rule 1210.02.[23]

M. Registration Categories

FINRA is proposing to integrate the various registration categories and related definitions contained in the NASD rules into a single rule, proposed Rule 1220,[24] subject to the changes described below.

1. Definition of Principal

Proposed Rule 1220(a)(1) defines a ''principal'' as any person associated with a member, including, but not limited to, sole proprietor, officer, partner, manager of office of supervisory jurisdiction, director or other person occupying a similar status or performing similar functions, who is actively engaged in the management of the member's investment banking or securities business,[25] such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions. Such persons shall include, among other persons, a

[19] FINRA states that the purpose of this waiver is to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they can gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by exam each time they return to the firm. *See id.*

[20] FINRA states that it would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable. *See id.*

[21] *See id.*

[22] FINRA provides examples in the Notice to illustrate how the waiver provision would work. *See id.*

[23] *See id.*

[24] FINRA is proposing to renumber Rule 1230 as Rule 1220.

[25] Proposed Rule 1220(a)(1) provides that the term ''actively engaged in the management of the member's investment banking or securities business'' includes the management of, and the implementation of corporate policies related to, such business. The term also includes managerial decision-making authority with respect to the member's investment banking or securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.

member's chief executive officer and chief financial officer (or equivalent officers). A ''principal'' also includes any other person associated with a member who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under the FINRA rules.

2. General Securities Principal

Proposed Rule 1220(a)(2) provides that each principal (as defined in Rule 1220(a)(1)) shall be required to register as a General Securities Principal, subject to the following exceptions:

- If a principal's activities include the functions of a Compliance Officer, a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, an Investment Banking Principal, a Research Principal, a Securities Trader Principal, or a Registered Options Principal, then such person shall appropriately register in one or more of those categories;
- if a principal's activities are limited solely to the functions of a Government Securities Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal, or a Private Securities Offerings Principal, then such person may appropriately register in one or more of those categories in lieu of registering as a General Securities Principal;
- if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then such person may appropriately register in that category in lieu of registering as a General Securities Principal, provided, however, that if such person is engaged in options sales activities, such person shall be required to register as a Registered Options Principal or as a General Securities Sales Supervisor; and
- if a principal's activities are limited solely to the functions of a Supervisory Analyst, then such person may appropriately register in that category in lieu of registering as a General Securities Principal, provided, however, that if such person is responsible for approving the content of a member's research report on equity securities, such person shall be required to register as a Research Principal or as a Supervisory Analyst.

The proposed rule provides that all individuals registering as General Securities Principals after the effective date of the proposed rule change shall, before or concurrent with such registration, become registered as a General Securities Representative and either (i) pass the General Securities Principal qualification exam or (ii) register as a General Securities Sales Supervisor and pass the General Securities Principal Sales Supervisor Module qualification exam.[26]

3. Compliance Officer

Proposed Rule 1220(a)(3) provides that each person designated as a Chief Compliance Officer on Schedule A of Form BD as specified in FINRA Rule 3130(a) shall be required to register as a Compliance Officer. Notwithstanding the foregoing, the proposed rule provides that an individual designated as a Chief Compliance Officer on Schedule A of Form BD of a member that is engaged in limited investment banking or securities business may be registered in a principal category under proposed Rule 1220(a) that corresponds to the limited scope of the member's business instead of being required to register as a Compliance Officer.

The proposed rule provides that all individuals registering as Compliance Officers after the effective date of the proposed rule change, shall, before or concurrent with such registration: (i) Become registered as a General Securities Representative and pass the General Securities Principal qualification exam; or (ii) pass the Compliance Official qualification exam.

4. Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer

Proposed Rule 1220(a)(4)(A) provides that each member that is operating pursuant to the provisions of Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8) under the Exchange Act shall designate a Financial and Operations Principal. In addition, each member subject to the requirements of Rule 15c3–1, other than a member operating pursuant to Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.[27]

In addition, proposed Rule 1220(a)(4)(B) provides that each member shall designate a: (i) Principal Financial Officer with primary responsibility for financial filings and those books and records related to such filings; and (ii) Principal Operations Officer with primary responsibility for the day-to-day operations of the member's business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and member assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities. Each member that self-clears, or that clears for other members, shall be required to designate separate persons to function as Principal Financial Officer and Principal Operations Officer; such persons may also carry out the other responsibilities of a Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal.[28] A member that is an introducing member may designate the same person to function as Financial and Operations Principal (or Introducing Broker-Dealer Financial and Operations Principal), Principal Financial Officer and Principal Operations Officer. Each person designated as a Principal Financial Officer or Principal Operations Officer must register as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.

The proposed rule provides that each person seeking to register as a Financial and Operations Principal shall, before or concurrent with such registration, pass the Financial and Operations Principal qualification exam. Each person seeking to register as an Introducing Broker-Dealer Financial and Operations Principal shall, before or concurrent with such registration, pass the Financial and Operations Principal qualification exam or the Introducing Broker-Dealer Financial and Operations Principal qualifications exam.

5. Investment Banking Principal

Proposed Rule 1220(a)(5) requires each principal who is responsible for supervising the investment banking activities specified in proposed Rule 1220(b)(5) to register as an Investment Banking Principal. The proposed rule provides that all individuals registering as Investment Banking Principals after the effective date of the proposed rule change shall, before or concurrent with such registration, become registered as an Investment Banking Representative

[26] FINRA is proposing to eliminate the Corporate Securities Representative registration category, as further described below.

[27] The proposed rule sets forth a list of duties that a Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal will be responsible for performing. *See* proposed Rule 1220(a)(4).

[28] The proposed rule provides that a self-clearing member that is limited in size and resources may, pursuant to the Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

and pass the General Securities Principal qualification exam.

6. Research Principal

Proposed Rule 1220(a)(6) requires each principal who is responsible for approving the content of a member's research reports on equity securities, or who, with respect to equity research, is responsible for supervising the overall conduct of a Research Analyst or a Supervisory Analyst to register as a Research Principal, subject to the following exceptions:

- If a principal's activities are limited solely to approving the content of a member's research reports on equity securities, then the person may register as a Supervisory Analyst in lieu of registering as a Research Principal;
- if a principal's activities are limited solely to reviewing a member's research reports on equity securities only for compliance with the disclosure provisions of Rule 2241, then the person may register as a General Securities Principal in lieu of registering as a Research Principal; and
- if a principal's activities are limited solely to approving the content of a member's research reports on debt securities or the content of third-party research reports, then the person may register as a General Securities Principal or as a Supervisory Analyst in lieu of registering as a Research Principal.

Pursuant to the proposed rule, all individuals registering as Research Principals after the effective date of the proposed rule change must, before or concurrent with such registration: (i) Become registered as a Research Analyst and pass the General Securities Principal qualification exam; or (ii) become registered as a Supervisory Analyst and pass the General Securities Principal qualification exam.

7. Securities Trader Principal

Proposed Rule 1220(a)(7) requires each principal who is responsible for supervising the securities trading activities specified in proposed Rule 1220(b)(4) to register as a Securities Trader Principal. Further, each person seeking to register as a Securities Trader Principal must, before or concurrent with such registration, become registered as a Securities Trader and pass the General Securities Principal qualification exam.

8. Registered Options Principal

Proposed Rule 1220(a)(8) requires each member engaged in transactions in options with the public to have at least one Registered Options Principal. In addition, the proposed Rule requires each principal who is responsible for supervising a member's options sales practices with the public, including a person designated pursuant to Rule 3110(a)(2), to register as a Registered Options Principal. Notwithstanding the foregoing, if a principal's options activities are limited solely to those activities that may be supervised by a General Securities Sales Supervisor as specified in Rule 2360, then such person may register as a General Securities Sales Supervisor in lieu of registering as a Registered Options Principal.

The proposed rule provides that all individuals registering as Registered Options Principals after the effective date of the proposed rule change shall, before or concurrent with such registration, become registered as a General Securities Representative and pass the Registered Options Principal qualification exam.

Proposed Rule 1220.02 provides specific requirements relating to persons engaging in security futures activities. Proposed Rule 1220.03 provides specific requirements relating to members with one Registered Options Principal.

9. Government Securities Principal

Proposed Rule 1220(a)(9) requires a principal to register as a Government Securities Principal if his activities include certain activities relating to the management or supervision of the member's government securities business. If a principal's functions include the activities specified in the rule, then the individual may register as a General Securities Principal in lieu of registering as a Government Securities Principal.

The proposed rule provides that all individuals registering as Government Securities Principals after the effective date of the proposed rule change shall, before or concurrent with such registration, become registered as a General Securities Representative.

10. General Securities Sales Supervisor

Proposed Rule 1220(a)(10) provides that each principal may register as a General Securities Sales Supervisor if the Principal's supervisory responsibilities in the investment banking or securities business of a member are limited to the securities sales activities of the member. The proposed rule precludes a person registered solely as a General Securities Sales Supervisor from performing the following activities: (a) Supervision of the origination and structuring of underwritings; (b) supervision of market making commitments; (c) supervision of the custody of broker-dealer or customer funds or securities for purposes of Rule 15c3–3 under the Exchange Act; or (d) supervision of overall compliance with financial responsibility rules for broker-dealers promulgated pursuant to the Exchange Act.

The proposed rule provides that each person seeking to register as a General Securities Sales Supervisor shall, before or concurrent with such registration, become registered as a General Securities Representative and pass the General Securities Sales Supervisor qualification exams.

Proposed Rule 1220.04 sets forth additional information relating to the General Securities Sales Supervisor registration category.

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal

Proposed Rule 1220(a)(11) provides that a principal may register as an Investment Company and Variable Contracts Products Principal if the person's activities in the investment banking or securities business of a member are limited to the activities specified in proposed Rule 1220(b)(7). Each person seeking to register as an Investment Company and Variable Contracts Products Principal shall, before or concurrent with such registration: (i) Become registered as a General Securities Representative and pass the Investment Company and Variable Contracts Products Principal qualification exam; or (ii) become registered as an Investment Company and Variable Contracts Products Representative and pass the Investment Company and Variable Contracts Products Principal qualification exam.

Proposed Rule 1220(a)(12) provides that a principal may register with FINRA as a Direct Participation Program Principal if the person's activities in the investment banking or securities business of a member are limited to the activities specified in proposed Rule 1220(b)(8). Each person seeking to register as a Direct Participation Program Principal shall, before or concurrent with such registration: (i) Become registered as a General Securities Representative and pass the Direct Participation Program Principal qualification exam; or (ii) become registered as a Direct Participation Programs Representative and pass the Direct Participation Program Principal qualification exam.

12. Private Securities Offerings Principal

Proposed Rule 1220(a)(12) provides that a principal may register as a Private Securities Offerings Principal if the person's activities in the investment

banking or securities business of a member are limited to the activities specified in proposed Rule 1220(b)(9). All individuals registering as Private Securities Offerings Principals after the effective date of the proposed rule change shall, before or concurrent with such registration, become registered as a Private Securities Offerings Representative and pass the General Securities Principal qualification exam.

FINRA proposes to create this limited principal registration category for principals whose activities are limited solely to the supervision of the private securities offerings specified in proposed Rule 1220(b)(9) (current NASD Rule 1032(h)) in order to provide firms with greater flexibility in designing their supervisory structures.[29] FINRA states that the proposed change is consistent with the limited registration categories for Investment Company and Variable Contracts Products Principals and Direct Participation Programs Principals.[30]

13. Supervisory Analyst

Proposed Rule 1220(a)(14) provides that a principal may register as a Supervisory Analyst if the Principal's activities are limited to approving the following: (a) The content of a member's research reports on equity securities; (b) the content of a member's research reports on debt securities; (c) the content of third-party research reports; (d) retail communications as described in Rule 2241(a)(11)(A); or (e) other research communications that do not meet the definition of ''research report'' under Rule 2241, provided that the Supervisory Analyst has technical expertise in the particular product area. The activities of a Supervisory Analyst engaged in equity research must be supervised by a Research Principal. Each person seeking to register as a Supervisory Analyst shall, before or concurrent with such registration, pass the Supervisory Analyst qualification exam.[31]

14. Definition of Representative

Proposed Rule 1220(b)(1) defines a ''representative'' as any person associated with a member, including assistant officers other than principals, who is engaged in the member's investment banking or securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

15. General Securities Representative and Foreign Registrations

Proposed Rule 1220(b)(2) requires a representative (as defined in proposed Rule 1220(b)(1)) to register as a General Securities Representative, subject to the following exceptions: (a) If a representative's activities include the functions of an Operations Professional, a Securities Trader, an Investment Banking Representative, or a Research Analyst, then the person must register in one or more of those categories; and (b) if a representative's activities are limited solely to the functions of an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative, or a Private Securities Offerings Representative, then the person may register in one or more of those categories in lieu of registering as a General Securities Representative.

Pursuant to proposed Rule 1220(b)(2), all individuals registering as General Securities Representatives after the effective date of the proposed rule change shall, before or concurrent with such registration, pass the SIE and the General Securities Representative qualification exam.

Proposed Rule 1220.01 provides that persons who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator shall be exempt from the requirement to pass the SIE.

FINRA states that, as part of the proposed restructuring of the representative-level exams, it is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, and associated Series 17, Series 37, and Series 38 exams. As a result, FINRA is proposing to adopt Rule 1220.01 to provide individuals who are associated persons of firms and hold foreign registrations an alternative, more flexible, process to obtain a FINRA representative-level registration.[32]

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative

Proposed Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8) and 1220(b)(9) set forth the registration requirements for Operations Professionals, Securities Traders, Investment Banking Representatives, Research Analysts, Investment Company and Variable Contracts Products Representatives, Direct Participation Programs Representatives, and Private Securities Offerings Representatives, respectively. Proposed Rule 1220.05 sets forth additional information relating to the Operations Professional registration requirement.

FINRA states that, consistent with the restructuring of the representative-level examinations, proposed Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9) will require individuals registering in the respective registration categories to pass the SIE and the applicable representative-level exam(s).

With respect to Research Analysts, FINRA is proposing to replace the General Securities Representative prerequisite registration requirement with the SIE so that individuals registering as Research Analysts would be required to pass the SIE and the Research Analyst exams. In addition, FINRA states that, consistent with existing guidance, it is proposing to clarify that the scope of the Research Analyst registration requirement in proposed Rule 1220(b)(6) is limited to associated persons who produce equity research reports.[33]

17. Eliminated Registration Categories

FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, Options Representative, Corporate Securities Representative, Government Securities Representative, and Foreign Associate as set forth in NASD Rules 1041, 1032(d), 1032(e), 1032(g), and 1100.[34] FINRA believes the utility of many of these categories has diminished, as evidenced by the low

[29] *See* Notice, *supra* note 4.

[30] *See id.*

[31] The proposed rule provides that, upon written request pursuant to the Rule 9600 Series, FINRA shall grant a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification exam upon verification that the applicant has passed Level I of the Chartered Financial Analyst Exam.

[32] *See* Notice, *supra* note 4.

[33] *See id.* Current NASD Rule 1050 does not apply to persons who produce debt research reports. *See* Research Rules Frequently Asked Questions, *http://www.finra.org/industry/faq-research-rules-frequently-asked-questions-faq.*

[34] As discussed above, FINRA is also proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories. *See* Section II.M.15 *supra.*

annual volume for the related qualification exams and the relatively low number of individuals who currently hold these registrations.[35] In addition, FINRA believes that Foreign Associates should demonstrate the same level of competence and knowledge required of their counterparts in the United States.[36]

Proposed Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed Rule 1210.08, individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives, or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years before the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category.

With respect to Foreign Associates, proposed Rule 1220.06 provides that individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA. However, if Foreign Associates subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates. FINRA states that, unlike the other categories being eliminated, Foreign Associates would not be eligible to re-register in the same category within two years of terminating their registrations because the two-year lapse of registration provision is only applicable to those registration categories that have an associated qualification exam.[37]

N. Associated Persons Exempt From Registration

Proposed Rule 1230 provides that the following persons associated with a member are not required to be registered: (i) Persons associated with a member whose functions are solely and exclusively clerical or ministerial; and (ii) persons associated with a member whose functions are related solely and exclusively to: (a) Effecting transactions on the floor of a national securities exchange and who are appropriately registered with such exchange; (b) transactions in municipal securities; (c) transactions in commodities; or (d) transactions in security futures, provided that any such person is registered with a registered futures association.

Proposed Rule 1230.01 provides that: (i) The function of accepting customer orders is not considered a clerical or ministerial function; (ii) each person associated with a member who accepts customer orders under any circumstances shall be registered in an appropriate registration category pursuant to proposed Rule 1220; and (iii) an associated person shall not be considered to be accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes order details submitted by a customer and the registered person contacts the customer to confirm the order details before entering the order.

FINRA is proposing to rescind the guidance provided in *NTM* 87–47 (July 1987),[38] and is proposing Rule 1230.01 to clarify that associated persons who accept customer orders are required to be appropriately registered.[39]

O. Changes to Continuing Education Requirements

As discussed above, Rule 1250 includes a Regulatory Element and a Firm Element of CE.[40] FINRA is proposing to renumber Rule 1250 as Rule 1240 with certain changes.

1. Regulatory Element

The Regulatory Element of CE currently applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards.[41] FINRA proposes to replace the term ''registered person'' with the term ''covered person'' for purposes of the Regulatory Element, and to define the term ''covered person'' as any person, other than a Foreign Associate, registered pursuant to proposed Rule 1210, including any person who is permissively registered pursuant to proposed Rule 1210.02, and any person who is designated as eligible for a waiver pursuant to proposed Rule 1210.09. FINRA states that the purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current.[42]

Consistent with proposed Rule 1210.09, the term ''covered person'' would include any person designated as eligible for waiver pursuant to the rule. Proposed Rule 1240(a) provides that the content of the Regulatory Element for a person designated as eligible for a waiver pursuant to proposed Rule 1210.09 shall be determined based on the person's most recent registration status, and the Regulatory Element shall be completed based on the same cycle had the person remained registered. Proposed Rule 1240(a) further provides that if a person designated as eligible for a waiver fails to complete the Regulatory Element within the prescribed time frames, the person shall no longer be eligible for a waiver.

FINRA is proposing to codify existing guidance regarding the effect of failing to complete the Regulatory Element on a registered person's activities and compensation.[43] Specifically, proposed Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.[44]

2. Firm Element

The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services, and strategies offered by the member.[45] FINRA proposes to amend the Firm Element requirements in proposed Rule 1204(b)(2)(B) to require that programs used to implement a member's training plan include training in ethics and professional responsibility. FINRA states that it believes training in ethics and professional responsibility should apply to all covered persons.[46]

[35] *See* Notice, *supra* note 4.

[36] *See id.*

[37] *See id.*

[38] In *NTM* 87–47, FINRA stated that unregistered administrative personnel may occasionally receive an unsolicited customer order at a time when appropriately qualified representatives or principals are unavailable. *See id.*

[39] *See id.*

[40] *See supra* note 17.

[41] *See* Notice, *supra* note 4.

[42] *See id.*

[43] *See id.*

[44] FINRA is also proposing to remove language under Rule 1250(a)(1) stating that FINRA shall determine the content of the Regulatory Element. FINRA states that this language is superfluous. *See id.*

[45] *See id.*

[46] Rule 1250(b)(2)(B) provides that with respect to Research Analysts and their immediate supervisors, the minimum standards for the Firm Element

III. Summary of Comment Letters and FINRA Response Letter

The Commission received eighteen comment letters on the proposal.[47] Sixteen commenters support the proposed rule change, and some of these commenters suggest certain areas of the proposal that could be clarified or revised, as further described below.[48] Two commenters support certain aspects of the proposal and do not support other aspects of the proposal.[49]

A. Opposition to Permissive Registration Proposal

One commenter generally supports the proposed restructuring of the representative-level qualification exams, but does not support the proposed permissive registration regime set forth in the proposal.[50] This commenter argues that eliminating any prohibition on the parking of registrations could allow unqualified individuals to maintain FINRA registrations and ''runs contrary to the provisions of the Exchange Act requiring FINRA to prescribe standards of training, experience, and competence for individuals engaged in the investment banking or securities business.'' [51]

In response, FINRA states that its current rule allows firms to permissively register associated persons who perform legal, compliance, internal audit, and back-office operations or who have similar responsibilities; that the proposed rule would allow firms to register other associated persons, such as those working in accounting or technology, regardless of their job function; and that FINRA does not believe that there is any meaningful distinction between the current categories of associated persons and other categories of associated persons for purposes of permissive registration.[52] In addition, FINRA notes that ''by allowing firms to maintain a larger roster of associated persons who are permissively registered, firms will have greater flexibility in managing unanticipated needs for qualified personnel.'' [53]

In response to this commenter's concern that the proposal could result in potentially unqualified individuals acting in registered capacities, FINRA provides two examples to illustrate that the proposed permissive registration regime should not result in unqualified individuals acting in registered capacities any more so than does allowing individuals who just entered the securities industry and passed the requisite examinations to serve in registered capacities.[54] FINRA also points out that the proposal contains a number of provisions designed to ensure that individuals with permissive registrations are adequately supervised and do not act outside the scope of their assigned functions.[55]

B. Opposition to Revised Registration Rules and Categories and Financial Services Affiliate Waiver Process

One commenter supports the permissive registration rules and opening the SIE up to the public but believes that the new rules and categories of registration are not necessarily an improvement over the current exam structure and that the time and effort spent by FINRA and firms to comply with the new rules can be better spent on other projects.[56] In response, FINRA states that it believes the proposed restructuring will result in a more effective and efficient examination program and reduce duplication.[57] FINRA also states that, to facilitate the implementation and management of the new examination structure with minimum disruption, FINRA is enhancing the CRD system and developing a management system to track SIE enrollments and results.[58]

This commenter also stated that FINRA should delay restructuring of representative-level exams until it determines whether a similar restructuring is feasible for principal-level exams.[59] In response, FINRA states that the value of the proposed changes warrants moving forward with the proposal now, and notes the extensive commentary previously sought and received on the registration rules.[60]

In addition, this commenter believes that the financial services affiliate waiver process set forth in proposed Rule 1210.09 is overly complex and difficult to understand and it is hard to determine what its effect will be.[61] In response, FINRA states that the financial services affiliate waiver program is much less burdensome than the original proposal set forth in *Regulatory Notice* 09–70 and that the conditions of the waiver are not difficult to satisfy, especially when compared to the original proposal.[62] FINRA notes that it provided several examples in the proposed rule change to illustrate the application of the waiver program and it will work with the industry to provide guidance, if necessary.[63] Finally, FINRA notes that the current waiver process would still be available to individuals who do not qualify for the waiver program set forth in proposed Rule 1210.09.[64]

Finally, this commenter notes that FINRA has not provided a cost estimate for the SIE and states that it cannot provide thoughtful comment without such an estimate.[65] In response, FINRA states that it provided a detailed economic impact assessment in the filing, including with respect to the introduction of the SIE and the restructuring of the representative-level examinations.[66] Further, FINRA states that it will file a separate proposed rule change to establish the fees for the SIE and the specialized knowledge examinations, which will include a pricing analysis.[67]

C. Suggested Amendments and Clarifications

1. Supervisory Obligations Relating to Permissive Registrations

Two commenters believe that the proposed supervisory requirements relating to permissive registrants are overly burdensome and should be amended to allow a permissively registered principal to be supervised by a registered representative or a registered principal.[68] In response, FINRA states that, under the proposal, the direct supervisor of an individual who solely maintains a permissive registration is not required to be a registered person, and a registered supervisor is only required to periodically contact the direct supervisor of such an individual to verify that the individual is not acting outside the scope of the individual's assigned functions.[69] In addition, FINRA states that it believes the

training programs must cover training in ethics, professional responsibility, and the requirements of Rule 2241. FINRA proposes to delete this language.

[47] *See supra* note 5.

[48] *See* CFA Letter, CFA Boston Letter, CFA Los Angeles Letter, CFA DC Letter, CFA San Francisco Letter, CFA Chicago Letter, CFA New York Letter, CFA Atlanta Letter, CFA Texas Letter, SIFMA Letter, FSI Letter, Fidelity Letter, Wells Fargo Letter, Nationwide Letter, ARM Letter, CAI Letter, and Morgan Stanley Letter.

[49] *See* NASAA Letter and CAI Letter.

[50] *See* NASAA Letter.

[51] *Id.*

[52] *See* FINRA Response Letter.

[53] *Id.*

[54] *See id.*

[55] *See id.*

[56] *See* CAI Letter.

[57] *See* FINRA Response Letter.

[58] *Id.*

[59] *See* CAI Letter.

[60] *See* FINRA Response Letter.

[61] *See* CAI Letter.

[62] *See* FINRA Response Letter.

[63] *See id.*

[64] *See id.*

[65] *See* CAI Letter.

[66] *See* FINRA Response Letter. *See also* Notice, *supra* note 4.

[67] *See* FINRA Response Letter.

[68] *See* ARM Letter and Fidelity Letter.

[69] *See* FINRA Response Letter.

designated supervisor of an individual who solely maintains a permissive registration as a principal should be a registered principal, as a registered principal is in the best position to assess whether a permissively-registered principal is performing activities normally performed by principals.[70]

One commenter recommends that more specific guidance be provided with respect to supervisory obligations of permissively registered individuals and believes that proposed Rule 1210.02, which states that all permissively registered individuals are subject to all FINRA rules, to the extent relevant to their activities, is both under- and over-inclusive.[71] In response, FINRA states that it ''does not believe that it is necessary to adopt a prescriptive provision identifying each rule that may potentially apply to a permissively-registered individual'' and that ''the proposed rule provides firms the flexibility to evaluate the activities of their personnel and tailor their supervisory systems accordingly, in light of the requirements of the particular rule.'' [72] In addition, FINRA notes that ''to the extent that interpretive questions arise regarding the application of a particular FINRA rule, FINRA will work with the industry to address such interpretive questions and provide additional guidance as needed.'' [73]

2. Requirements for Registered Persons Functioning as Principals for a Limited Period

Four commenters suggest that FINRA remove or shorten the requirement that registered representatives designated to function as principals for a limited period before passing a principal qualification exam have 18 months of registered representative experience within the previous five year period.[74] In response, FINRA states that when a firm designates a registered representative to function as a principal without having passed the principal-level examinations, the registered representative must have a consistent amount of securities industry experience.[75] FINRA also notes that the proposed rule provides firms the flexibility to designate a principal to function in another principal category for 120 calendar days before passing the applicable exams. The Principal would not be subject to the proposed experience requirement.[76]

3. Time Period for Retaking Failed Exams

One commenter requests that FINRA eliminate the proposed 180-day waiting period for taking an exam imposed on individuals who fail an exam three or more times in succession within a two-year period, and suggests various alternatives.[77] In response, FINRA states that the proposed waiting periods for retaking a failed exam are specifically designed for test security purposes and to ensure an exam's effectiveness as a measure of ability.[78]

4. Lapse of Registration and SIE Expiration Periods

A number of commenters suggest that FINRA amend the proposal to align the expiration periods for the SIE, representative-level registrations, and principal-level registrations to make them all be four years.[79] One commenter requests that FINRA eliminate or extend the SIE expiration period.[80] Two commenters believe that the SIE should never expire so long as individuals complete their required Regulatory Element of CE.[81] One of these commenters argues that there should not be an expiration period for the specialized exams either so long as individuals complete their required Regulatory Element of CE.[82]

In response, FINRA states that it continues to believe that the SIE should be subject to a four-year expiration period given that, among other things, some of the individuals who pass the SIE may not have any exposure to the investment banking or securities business until they associate with a member, individuals who only pass the SIE would not be required to satisfy CE requirements, and the knowledge tested on the SIE is not static.[83] However, FINRA states that it will consult with the Securities Industry/Regulatory Council on Continuing Education (''CE Council'') to ''evaluate the feasibility of developing a CE program, which would include general knowledge content, for individuals who have only passed the SIE.'' [84] In addition, FINRA notes that it is currently consulting with the CE Council to explore the possibility of requiring registered persons to participate more frequently in CE as a precondition to extending this time period.[85]

5. Waiver of Exams for Individuals Working for a Financial Services Industry Affiliate of a Member

A number of commenters suggest that FINRA clarify and/or amend certain aspects of the financial services affiliate waiver set forth in proposed Rule 1210.09. Three commenters argue that the requirement that an individual be registered during five of the previous ten years is overly burdensome and should be revised.[86] Three commenters request that FINRA eliminate the seven-year time limit following designation as eligible for a financial services affiliate waiver.[87] In response, FINRA states that it narrowly tailored the proposed waiver program; the proposed time limits are specifically designed to allow more seasoned personnel that have been transferred by a firm to an affiliate for a limited period to return to the securities industry without having to requalify by exam.[88]

One commenter requests that FINRA provide a waiver ''claw back'' period to allow individuals who were terminated from a firm within two years of the proposal's approval date, and who meet the eligibility requirements, to be eligible for a waiver.[89] FINRA responds that applying the proposed waiver program on a retroactive basis would add unnecessary complexity and that the existing waiver process would be available to such persons.[90]

One commenter suggests that individuals designated as eligible for the financial services affiliate waiver be placed on inactive status rather than have their registrations terminated, so that they could be tracked through CRD and FINRA could provide information to the public through BrokerCheck.[91] FINRA responds that this commenter's suggestion mirrors its original proposal [92] which commenters objected to because of the complexity and operational and cost burden. In response, FINRA developed the current proposal.[93]

[70] *Id.*

[71] *See* CAI Letter.

[72] *See* FINRA Response Letter.

[73] *Id.*

[74] *See* SIFMA Letter, Wells Fargo Letter, Fidelity Letter, and ARM Letter.

[75] *See* FINRA Response Letter.

[76] *See id.* FINRA also notes that the proposed experience requirement does not operate as a ''safe harbor'' with respect to a firm's designation of supervisory personnel. *See id.*

[77] *See* Nationwide Letter.

[78] *See* FINRA Response Letter.

[79] *See* SIFMA Letter, FSI Letter, and Fidelity Letter.

[80] *See* CAI Letter.

[81] *See* Nationwide Letter and ARM Letter.

[82] *See* ARM Letter.

[83] *See* FINRA Response Letter.

[84] *Id.*

[85] *See id.*

[86] *See* Wells Fargo Letter, Fidelity Letter, and CAI Letter.

[87] *See* Nationwide Letter, ARM Letter, and CAI Letter.

[88] *See* FINRA Response Letter.

[89] *See* Fidelity Letter.

[90] *See* FINRA Response Letter.

[91] *See* Nationwide Letter.

[92] *See* Regulatory Notice 09–70.

[93] *See* FINRA Response Letter.

One commenter asked whether individuals designated under the waiver provision would be subject to FINRA's regulatory requirements and further stated that the proposed rule should require such individuals to attend annual compliance meetings and complete the Firm Element of CE.[94] FINRA responds that individuals subject to the designation would not be subject to FINRA's jurisdiction based on their activities working for a member's financial services industry affiliate but would be required to, among other things, complete the Regulatory Element of CE if they wish to obtain a waiver upon their return to the securities industry.[95] FINRA notes that it does not believe that it is necessary to require these individuals to attend annual compliance meetings and complete the Firm Element of CE, which are requirements applicable to registered persons with day-to-day responsibilities at a member.[96]

One commenter requests that FINRA clarify the process for designating an individual for the waiver, and argues that the designation process could be simplified by relying on the CRD system to accept and maintain the designation.[97] One commenter notes that firms must develop a process for tracking and monitoring designated individuals, which will be a burden.[98] In response, FINRA states that it is considering using the CRD system to allow a member to designate an individual for the waiver.[99] However, FINRA notes that it would not track a designated individual's time at a financial services industry affiliate of a member and, upon registering the individual with FINRA, the firm with which the individual is associating at that time would be required to represent, among other things, that the individual continuously worked for the financial services industry affiliate(s) of a member since the last Form U5 filing.[100] FINRA notes that it may independently verify this information and it will be able to track whether an individual completed the Regulatory Element of CE while working for a financial services industry affiliate of a member.[101]

One commenter states that individuals should not be disqualified from the waiver due to ''pending or adverse regulatory matters,'' but only as a result of ''regulatory findings.'' [102] FINRA responds that pending regulatory matters have a bearing on whether an individual has remained in good standing while working for a financial services industry affiliate of a member.[103]

Two commenters suggest that FINRA change the financial services affiliate waiver acronym from ''FSA'' to something else in order to avoid confusion.[104] In response, FINRA notes that the acronym is not used in proposed Rule 1210.09 and, to avoid confusion, FINRA will use a different acronym in the future.[105]

Three commenters suggest that, following the effectiveness of the proposal, FINRA monitor the waiver program and maintain a dialog with members to make sure it is operating as intended.[106] One commenter notes that members will need training, additional information, and detailed waiver guidelines to better understand the designation and waiver process.[107] In response, FINRA states that it is committed to engaging in an ongoing dialogue with industry participants to ensure that the waiver program is effective and efficient and, as needed, will provide guidance to firms.[108]

6. Principal Financial Officer and Principal Operations Officer

Two commenters request that FINRA clarify the registration requirements for Principal Financial Officers and Principal Operations Officers, including whether such designated individuals will continue to be exempt from the Operations Professional (Series 99) qualification exam.[109] In response, FINRA states that Principal Financial Officers and Principal Operations Officers must be registered in the CRD system as Operations Professionals but would not be required to pass the Series 99 exam in order to register as such if they already hold a qualifying registration.[110] In addition, FINRA states that because Principal Financial Officers and Principal Operations Officers would already be registered as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, they would be eligible to register as Operations Professionals.[111]

7. Implementation Date

Six commenters state that the proposed implementation date set forth in the Notice of March 2018 is not appropriate and suggest FINRA allow more time for firms to implement the proposed rule change.[112] In response, FINRA states that it intends to move the implementation date to the fourth quarter of 2018; FINRA will announce the implementation date of the proposed rules in a Regulatory Notice.[113]

8. Other Comments

Nine commenters request that FINRA and the Commission recognize the Chartered Financial Analyst (CFA) program and the CFA charter as an alternative means of qualifying individuals for FINRA representative-level registrations.[114] In response, FINRA states that it will consider undertaking an analysis that would evaluate the proposed CFA approach to determine if it is feasible and would be cost effective for the industry.[115]

Two commenters state that the broker-dealer registration rules, as amended by FINRA's proposal, should be harmonized across regulators.[116] In response, FINRA states that it has discussed aspects of the proposal, such as the introduction of the SIE and the specialized knowledge examinations, with other self-regulatory organizations, including the MSRB, and that it will continue these discussions.[117]

One commenter requests that FINRA clarify whether it will provide actual scores for the SIE to candidates.[118] In response, FINRA states that it is exploring options for providing appropriate performance feedback to failing candidates and their firms and that FINRA does not see a need, at this time, to provide such feedback for candidates who pass.[119]

One commenter notes its concern that bad actors who take the SIE may hold themselves out as licensed professionals to defraud investors, and encourages

[94] *See* Nationwide Letter.

[95] *See* FINRA Response Letter. FINRA notes, however, that it retains jurisdiction for up to two years over a person who ceases to be associated or registered with a member. *See id.*

[96] *See id.*

[97] *See* CAI Letter.

[98] *See* Nationwide Letter.

[99] *See* FINRA Response Letter.

[100] *See id.*

[101] *See id.* and Section 15A(b)(2) of the Exchange Act.

[102] *See* ARM Letter

[103] *See* FINRA Response Letter.

[104] *See* SIFMA Letter and ARM Letter.

[105] *See* FINRA Response Letter.

[106] *See* SIFMA Letter, Wells Fargo Letter, and ARM Letter.

[107] *See* ARM Letter.

[108] *See* FINRA Response Letter.

[109] *See* SIFMA Letter and Wells Fargo Letter.

[110] *See* FINRA Response Letter.

[111] *See id.*

[112] *See* SIFMA Letter, FSI Letter, Wells Fargo Letter, Fidelity Letter, ARM Letter, and CAI Letter.

[113] *See* FINRA Response Letter.

[114] *See* CFA Letter, CFA Boston Letter, CFA Los Angeles Letter, CFA DC Letter, CFA San Francisco Letter, CFA Chicago Letter, CFA New York Letter, CFA Atlanta Letter, and CFA Texas Letter.

[115] *See* FINRA Response Letter.

[116] *See* Fidelity Letter and Morgan Stanley Letter.

[117] *See* FINRA Response Letter.

[118] *See* ARM Letter.

[119] *See* FINRA Response Letter.

FINRA to consider implementing further controls as a part of the enhancements it is considering to the CRD system and BrokerCheck, to ensure those who pass the SIE do not mislead investors.[120] In response, FINRA states that BrokerCheck provides information to the public on persons who are, or were, registered to conduct investment banking or securities business, and FINRA believes that including individuals who only pass the SIE, and thus would not be registered to engage in such business, on BrokerCheck may cause confusion.[121]

One commenter makes several additional suggestions relating to FINRA's registration rules and processes, including that FINRA: (i) Modify the General Securities Principal exam content to eliminate product scope limitations; (ii) establish reciprocity with the New York Stock Exchange with respect to Chief Compliance Officer exams; (iii) keep certain registration categories that are being eliminated as qualifying prerequisites for other registration categories; and (iv) work with other regulators to minimize multiple registration categories related to a single exam in order to simplify Section 4 of the Form U4.[122] In response, FINRA states that it will address the content of the Series 24 exam and the status of the Series 14 exam as part of evaluating the principal-level examinations, which is ongoing.[123] In addition, FINRA states that, while it is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, individuals maintaining these registrations would be grandfathered and their registrations would continue to be viewed as equivalent to the General Securities Representative prerequisite registration.[124] Finally, FINRA states that concerns regarding the complexities of the Form U4 registration table are more appropriately addressed through changes to the CRD system's Form U4 interface, rather than through the proposed rule change.[125]

IV. Discussion and Commission's Findings

After careful review of the proposed rule change, the comment letters and the FINRA Response Letter, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[126] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,[127] which requires, among other things, that FINRA rules 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(g)(3) of the Exchange Act,[128] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members.

FINRA states that, as part of the process of developing the Consolidated FINRA Rulebook, FINRA undertook a review of the NASD registration rules and the Incorporated NYSE rules relating to registration to update the rules and eliminate duplicative, obsolete, or superfluous provisions, and the proposed consolidated registration rules are the result of that process.[129] FINRA states that it believes the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with the rules and improve regulatory efficiency.[130]

FINRA states that it also reviewed its representative-level examination program and determined to enhance the overall efficiency of the program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations, and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public.[131] FINRA states that the proposed changes will improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on exams and by removing exams that currently have limited utility.[132]

The Commission notes that one commenter is concerned that proposed Rule 1210.02, which would expand the scope of permissive registrations, could, among other things, result in potentially unqualified individuals acting in registered capacities.[133] In response, FINRA states that ''allowing firms to permissively register associated persons in anticipation of future needs for qualified personnel is consistent with FINRA's authority under the Exchange Act'' and that ''by allowing firms to maintain a larger roster of associated persons who are permissively registered, firms will have greater flexibility in managing unanticipated needs for qualified personnel.'' [134] FINRA also points out that, pursuant to the proposal, individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities; that members must have adequate supervisory systems and written procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions; and that the rule provides for additional supervisory controls of individuals with permissive registrations.[135] The Commission notes that, pursuant to the proposal, individuals with permissive registrations would also be subject to the Regulatory Element of the CE requirements.[136]

In addition, a number of commenters were concerned with various aspects of the proposal to provide a waiver process for individuals working for a financial services industry affiliate of a member.[137] FINRA states that this proposed waiver process is narrowly tailored,[138] and will require individuals granted a waiver to maintain specified levels of competence and knowledge while working in areas ancillary to the investment banking and securities business.[139] FINRA points out that,

[120] *See* FSI Letter.

[121] *See* FINRA Response Letter.

[122] *See* ARM Letter.

[123] *See* FINRA Response Letter.

[124] *See id.*

[125] *See id.*

[126] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[127] 15 U.S.C. 78*o*–3(b)(6).

[128] 15 U.S.C. 78*o*–3(g)(3).

[129] *See* Notice, *supra* note 4.

[130] *See id.*

[131] *See id.*

[132] *See id.*

[133] *See* NASAA Letter. In addition, this commenter states that proposed Rule 1210.02 ''runs contrary to the provisions of the Exchange Act requiring FINRA to prescribe standards of training, experience, and competence for individuals engaged in the investment banking or securities business.'' *Id.*

[134] FINRA Response Letter.

[135] *See id. See also* proposed Rule 1210.02.

[136] *See* proposed Rules 1210.07 and 1240.

[137] *See* proposed Rule 1210.09 and *supra* notes 61 and notes 86–105.

[138] *See* FINRA Response Letter (''FINRA understands that firms regularly transfer more seasoned personnel to an affiliate for a limited period so that they could gain organizational skills and better knowledge of products developed by the affiliate. FINRA designed the FSA waiver program to allow such individuals to return to the securities industry without them having to requalify by examination. Thus, the FSA waiver program is narrowly tailored and the proposed conditions serve that purpose.'')

[139] *See* Notice, *supra* note 4.

among other conditions, the proposed rule requires that: (i) Before an individual's initial designation, the individual must have been registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual; (ii) the waiver request must be made within seven years of the individual's initial designation; and (ii) the individual cannot have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4 (Uniform Application for Securities Industry Registration or Transfer).[140] The Commission notes that the designated individual must also comply with the Regulatory Element of the CE requirements.[141] The Commission further notes that FINRA has committed to ''engaging in an ongoing dialogue with industry participants to ensure that the waiver program is effective and efficient and, as needed, will provide guidance to firms.'' [142]

FINRA states that the proposed rule change will make the qualification and registration process more effective and efficient, without affecting the proficiency required to function as a representative or principal or reducing investor protection.[143] FINRA also states that the proposed rule change may enhance the pool of prospective securities industry professionals by familiarizing them with securities laws, rules, and regulations and appropriate conduct at an earlier stage of career development.[144]

The Exchange Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members.[145] In accordance with that provision, FINRA has proposed to revise its registration requirements, qualification examinations, and continuing education requirements which the Commission believes are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with the applicable registration category. The Commission believes that FINRA has adequately addressed all comments that are within the scope of the proposed rule change.[146] For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act.

V. Conclusion

It is therefore ordered that, pursuant to Section 19(b)(2) of the Exchange Act,[147] the proposed rule change (SR–FINRA–2017–007), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[148]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–14667 Filed 7–12–17; 8:45 am]

BILLING CODE 8011–01–P

[140] *See* FINRA Response Letter.

[141] *See* proposed Rules 1210.09 and 1240.

[142] FINRA Response Letter.

[143] *See* Notice, *supra* note 4.

[144] *See id.*

[145] 15 U.S.C. 78*o*–3(g)(3).

[146] *See supra* Section III.

[147] 15 U.S.C. 78s(b)(2).

[148] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15144 and #15145; Oklahoma Disaster Number OK–00115]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4315–DR); dated 05/26/2017.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/28/2017 through 05/02/2017.

DATES: Effective 07/07/2017.

Physical Loan Application Deadline Date: 07/25/2017.

Economic Injury (Eidl) Loan Application Deadline Date: 02/26/2018.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Oklahoma, dated 05/26/2017, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Dewey, Pawnee, Rogers.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–14708 Filed 7–12–17; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2017–0036]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and an extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2017–0036].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 11, 2017. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Statement of Marital Relationship (By One of the Parties)—20 CFR 404.726—0960–0038. SSA must obtain a signed statement from a spousal

applicant if the applicant claims a common-law marriage to the insured in a state in which such marriages are recognized, and no formal marriage documentation exists. SSA uses information we collect on Form SSA–754–F4 to determine if an individual applying for spousal benefits meets the criteria of common-law marriage under state law. The respondents are applicants for spouse's Social Security benefits or Supplemental Security Income (SSI) payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–754–F4	30,000	1	30	15,000

2. Workers' Compensation/Public Disability Questionnaire—20 CFR 404.408—0960–0247. Section 224 of the Social Security Act (Act) provides for the reduction of disability insurance benefits (DIB) when the combination of DIB and any workers' compensation (WC) or certain Federal, State or local public disability benefits (PDB) exceeds 80 percent of the worker's pre-disability earnings. SSA field office staff conducts face-to-face interviews with applicants using the electronic SSA–546 WC/PDB screens in the Modernized Claims System (MCS) to determine if the worker's receipt of WC or PDB payments will cause a reduction of DIB. The respondents are applicants for the Title II DIB.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–546 MCS Screens	248,000	1	15	62,000

3. Medicaid Use Report—20 CFR 416.268—0960–0267. Section 20 CFR 416.268 of the Code of Federal Regulations requires SSA to determine eligibility for: (1) Special SSI cash payments and, (2) special SSI eligibility status for a person who works despite a disabling condition. It also provides that, to qualify for special SSI eligibility status, an individual must establish that termination of eligibility for benefits under Title XIX of the Act would seriously inhibit the ability to continue employment. SSA employees collect the information this regulation requires from respondents during a personal interview. We then use this information to determine if an individual is entitled to special Title XVI SSI payments and, consequently, to Medicaid. The respondents are SSI recipients for whom SSA has stopped payments based on earnings.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
20 CFR 416.268	60,000	1	3	3,000

4. Medicare Subsidy Quality Review Forms—20 CFR 418(b)(5)—0960–0707. The Medicare Modernization Act of 2003 mandated the creation of the Medicare Part D prescription drug coverage program, and provides certain subsidies for eligible Medicare beneficiaries to help pay for the cost of prescription drugs. As part of its stewardship duties of the Medicare Part D subsidy program, SSA must conduct periodic quality review checks of the information Medicare beneficiaries report on their subsidy applications (Form SSA–1020). SSA uses the Medicare Quality Review program to conduct these checks. The respondents are applicants for the Medicare Part D subsidy whom SSA chose to undergo a quality review.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–9301 (Medicare Subsidy Quality Review Case Analysis Questionnaire)	3,500	1	30	1,750
SSA–9302 (Notice of Quality Review Acknowledgement Form for those with Phones)	3,500	1	15	875
SSA–9303 (Notice of Quality Review Acknowledgement Form for those without Phones)	350	1	15	88
SSA–9308 (Request for Information)	7,000	1	15	1,750
SSA–9310 (Request for Documents)	3,500	1	5	292
SSA–9311 (Notice of Appointment—Denial—Reviewer Will Call)	450	1	15	113
SSA–9312 (Notice of Appointment—Denial—Please Call Reviewer)	50	1	15	13

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–9313 (Notice of Quality Review Acknowledgement Form for those with Phones)	2,500	1	15	625
SSA–9314 (Notice of Quality Review Acknowledgement Form for those without Phones)	500	1	15	125
Totals	21,350			5,631

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than August 14, 2017. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. myWageReport—0960–NEW.

Overview

SSA is creating a new electronic wage reporting application, myWageReport.

Background

Social Security Disability Insurance (SSDI) beneficiaries receive payments based on their ability to engage in substantial gainful activity because of a physical or mental condition. SSA requires SSDI beneficiaries or their representative payees to report when beneficiaries return to work, when their amount of work increases, or when their earnings increase. Currently, SSDI beneficiaries can call our 800 number; visit a local field office (FO); or mail paystubs and earnings to their local field offices to report this information.

Section 826 of the Bipartisan Budget Act (BBA) of 2015, Pub.L. 114–74, requires SSA to offer SSDI beneficiaries the same electronic/automated receipt wage reporting methods available to Supplemental Security Income recipients, including the Internet. Accordingly, we are creating a new Internet reporting system for this purpose, myWageReport.

myWageReport

The myWageReport application will enable SSDI beneficiaries and representative payees to report earnings electronically. It will also generate a receipt for the beneficiary and/or representative payee, thus providing confirmation that SSA has received the earnings report.

SSA will screen the information submitted through the myWageReport application and will determine if we need additional employment information. If so, agency personnel will reach out to beneficiaries or their representative payees and will use Form SSA–821, Work Activity Report (0960–0059), to collect the additional required information.

The respondents for this collection are SSDI recipients or their representative payees.

Type of Request: New Information Collection Request.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
myWageReporting	54,000	1	7	6,300

2. RS/DI Quality Review Case Analysis: Sampled Number Holder; Auxiliaries/Survivors; Parent; and Stewardship Annual Earnings Test—0960–0189. Section 205(a) of the Act authorizes the Commissioner of SSA to conduct the quality review process, which entails collecting information related to the accuracy of payments made under the Old-Age, Survivors, and Disability Insurance Program (OASDI). Sections 228(a)(3), 1614(a)(1)(B), and 1836(2) of the Act require a determination of the citizenship or alien status of the beneficiary; this is only one item that we might question as part of the Annual Quality review. SSA uses Forms SSA–2930, SSA–2931, and SSA–2932 to establish a national payment accuracy rate for all cases in payment status, and to serve as a source of information regarding problem areas in the Retirement Survivors Insurance (RSI) and Disability Insurance (DI) programs. We also use the information to measure the accuracy rate for newly adjudicated RSI or DI cases. SSA uses Form SSA–4659 to evaluate the effectiveness of the annual earnings test, and to use the results in developing ongoing improvements in the process. About twenty-five percent of respondents will have in-person reviews and receive one of the following appointment letters: (1) SSA–L8550–U3 (Appointment Letter—Sample Individual); (2) SSA–L8551–U3 (Appointment Letter—Sample Family); or (3) the SSA–L8552–U3 (Appointment Letter—Rep Payee). Seventy-five percent of respondents will receive a notice for a telephone review using the SSA–L8553–U3 (Beneficiary Telephone Contact) or the SSA–L8554–U3 (Rep Payee Telephone Contact). To help the beneficiary prepare for the interview, we include three forms with each notice: (1) SSA–85 (Information Needed to Review Your Social Security Claim) lists the information the beneficiary will need to gather for the interview; (2) SSA–2935 (Authorization to the Social Security Administration to Obtain Personal Information) verifies the beneficiary's correct payment amount, if necessary; and (3) SSA–8552 (Interview Confirmation) confirms or reschedules the interview if necessary. The respondents are a statistically valid sample of all OASDI beneficiaries in current pay status or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2930	1,500	1	30	750
SSA–2931	850	1	30	425
SSA–4659	325	1	10	54
SSA–L8550–U3	385	1	5	32
SSA–L8551–U3	95	1	5	8
SSA–L8552–U3	35	1	5	3
SSA–L8553–U3	4970	1	5	414
SSA–L8554–U3	705	1	5	59
SSA–8552	2350	1	5	196
SSA–85	3850	1	5	321
SSA–2935	2350	1	5	196
SSA–8510 (also saved under OMB No. 0960–0707)	800	1	5	67
Totals	17,700	.....	.....	2,525

3. Objection to Appearing by Video Teleconferencing; Acknowledgement of Receipt (Notice of Hearing); Waiver of Written Notice of Hearing—20 CFR 404.935, 404.936; 404.938, 404.939, 416.1435, 416.1436, 416.1438, & 416.1439—0960–0671. SSA uses the information we obtain on Forms HA–55, HA–504, HA–504–OP1, HA–510, and HA–510–OP1 to manage the means by which we conduct hearings before an administrative law judge (ALJ), and the scheduling of hearings with an ALJ. We use the HA–55, Objection to Appearing by Video Teleconferencing, and its accompanying cover letter, HA–L2, to allow claimants to opt-out of an appearance via video teleconferencing (VTC) for their hearing with an ALJ. The HA–L2 explains the good cause stipulation for opting out of VTC if the claimant misses their window to submit the HA–55, and for verifying a new residence address if the claimant moved since submitting their initial hearing request. SSA uses the HA–504 and HA–504–OP1, Acknowledgement of Receipt (Notice of Hearing), and accompanying cover letter, HA–L83 to: (1) Acknowledge the claimants will appear for their hearing with an ALJ; (2) establish the time and place of the hearing; and (3) remind claimants to gather evidence in support of their claims. The only difference between the two versions of the HA–504 is the language used for the selection check boxes as determined by the type of appearance for the hearing (in-person, phone teleconference, or VTC). In addition, the cover letter, HA–L83, explains: (1) The claimants' need to notify SSA of their wish to object to the time and place set for the hearing; (2) the good cause stipulation for missing the deadline for objecting to the time and place of the hearing; and (3) how the claimants can submit, in writing, any additional evidence they would like the ALJ to consider, or any objections they have on their claims. The HA–510, and HA–510–OP1, Waiver of Written Notice of Hearing, allows the claimants to waive their right to receive the Notice of Hearing as specified in the HA–L83. We typically use these forms when there is a last minute available opening on an ALJ's schedule, so the claimants can fill in the available time slot. If the claimants agree to fill the time slot, we ask them to waive their right to receive the Notice of Hearing. We use the HA–510–OP1 at the beginning of our process for representatives and claimants who wish to waive the 75-day requirement earlier in the process, and the HA–510 later in the process for those representatives and claimants who want the full 75 days prior to the scheduled hearing. The respondents are applicants for Social Security disability payments who request a hearing to appeal an unfavorable entitlement or eligibility determination.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–504 (with teleconferencing)	898,000	1	30	449,000
HA–504–OP1	2,000	1	30	1,000
HA–L83	900,000	1	30	450,000
HA–L83—Good Cause for missing deadline	5,000	1	5	417
HA–L83—Objection Stating Issues in Notice are Incorrect	45,000	1	5	3,750
HA–55	850,000	1	5	70,833
HA–L2—Verification of New Residence	45,000	1	5	3,750
HA–L2—Late Notification of Objection to VTC showing good cause	13,500	1	10	2,250
HA–510;				
HA–510–OP1	4,000	1	2	133
Totals	2,762,500	.....	.....	981,133

4. Social Security's Public Credentialing and Authentication Process—20 CFR 401.45 and 402—0960–0789.

Background

Authentication is the foundation for secure, online transactions. Identity authentication is the process of determining, with confidence, that someone is who he or she claims to be during a remote, automated session. It comprises three distinct factors: something you know; something you

have; and something you are. Single-factor authentication uses one of the factors, and multi-factor authentication uses two or more of the factors.

SSA's Public Credentialing and Authentication Process

SSA offers consistent authentication across SSA's secured online services. We allow our users to request and maintain only one User ID, consisting of a self-selected username and password, to access multiple Social Security electronic services. Designed in accordance with the OMB Memorandum M–04–04 and the National Institute of Standards and Technology (NIST) Special Publication 800–63, this process provides the means of authenticating users of our secured electronic services and streamlines access to those services.

SSA's public credentialing and authentication process:

- Issues a single User ID to anyone who wants to do business with the agency and meets the eligibility criteria;
- Partners with an external Identity Services Provider (ISP) to help us verify the identity of our online customers;
- Complies with relevant standards;
- Offers access to some of SSA's heaviest, but more sensitive, workloads online while providing a high level of confidence in the identity of the person requesting access to these services;
- Offers an in-person process for those who are uncomfortable with or unable to use the Internet process;
- Balances security with ease of use; and
- Provides a user-friendly way for the public to conduct extended business with us online instead of visiting local servicing offices or requesting information over the phone. Individuals have real-time access to their Social Security information in a safe and secure web environment.

Public Credentialing and Authentication Process Features

We collect and maintain the users' personally identifiable information (PII) in our Central Repository of Electronic Authentication Data Master File Privacy Act system of records, which we published in the **Federal Register** (75 FR 79065). The PII may include the users' name; address; date of birth; Social Security number (SSN); phone number; and other types of identity information [*e.g.,* address information of persons from the W–2 and Schedule Self Employed forms we receive electronically for our programmatic purposes as permitted by 26 U.S.C. 6103(l)(1)(A)]. We may also collect knowledge-based authentication data, which is information users establish with us or that we already maintain in our existing Privacy Act systems of records.

We retain the data necessary to administer and maintain our e-Authentication infrastructure. This includes management and profile information, such as blocked accounts; failed access data; effective date of passwords; and other data allowing us to evaluate the system's effectiveness. The data we maintain also may include archived transaction data and historical data.

We use the information from this collection to identity proof and authenticate our users online, and to allow them access to their personal information from our records. We also use this information to provide second factor authentication. We are committed to expanding and improving this process so we can grant access to additional online services in the future.

Offering online services is not only an important part of meeting SSA's goals, but is vital to good public service. In increasing numbers, the public expects to conduct complex business over the Internet. Ensuring SSA's online services are both secure and user-friendly is our priority. We awarded a competitively bid contract to an ISP, Equifax,[1] to help us verify the identity of our online customers. We use this ISP, in addition to our other authentication methods, to help us prove, or verify, the identity of our customers when they are completing online or electronic transactions with us.

Social Security's Authentication Strategy

We remain committed to enhancing our online services using authentication processes that balance usability and security. We will continue to research and develop new authentication tools while monitoring the emerging threats.

The following are key components of our authentication strategy:

- Enrollment and Identity Verification—Individuals who meet the following eligibility requirements may enroll:
  - Must have a valid email address;
  - Must have a valid Social Security number (SSN);
  - Must have a domestic address of record (includes military addresses); and
  - Must be at least 18 years of age.

  We collect identifying data and use SSA and ISP records to verify an individual's identity. Individuals have the option of obtaining an enhanced, stronger, User ID by providing certain financial information (*e.g.,* Medicare wages, self-employed earnings, or the last eight digits of a credit card number) for verification. We also ask individuals to answer out-of-wallet questions so we can further verify their identities. Individuals who are unable to complete the process online can present identification at a field office to obtain a User ID.
- Establishing the User Profile—The individual self-selects a username and password, both of which can be of variable length and alphanumeric. We provide a password strength indicator to help the individual select a strong password. We also ask the individual to choose challenge questions for use in restoring a lost or forgotten username or password.
- Provide a Second Factor—We ask the individual to provide a text message enabled cell phone number or an email address. We consider the cell phone number or email address the second factor of authentication. We send a security code to the individual's selected second factor. We require the individual to confirm its receipt by entering the security code online. Subsequently, each time the individual attempts to sign in to his or her online account, we will also send a message with a one-time security code to the individual's selected second factor. The individual must enter the security code along with his or her username and password. The code is valid for only 10 minutes. If the individual does not enter the code within 10 minutes, the code expires, and the individual must request another code.
- Enhancing the User ID—If individuals opt to enhance or upgrade their User IDs, they must provide certain financial information for verification. We mail a one-time-use upgrade code to the individual's verified residential address. When the individual receives the upgrade code in the mail, he or she can enter this code online to enhance the security of the account. With extra security, we continue to require the individuals to sign in using their username, password, and a one-time security code we send to their second factor email address or cell phone number (whichever the users listed in their account).
- Sign in and Use—Our authentication process provides an individual with a User ID for access to our sensitive online Social Security services. Second factor authentication requires the individual to sign in with a username, password, and a one-time

[1] Equifax is a global information solutions provider. Equifax's solutions help Social Security to manage risk and mitigate fraud.

security code sent to the individual's selected second factor. SSA expanded its existing capabilities to require second factor authentication for every online sign in. We also allow for maintenance of the second factor options. An individual who forgets the password can reset it automatically without contacting SSA.

Social Security's Enrollment Process

The enrollment process is a one-time only activity. SSA requires the individuals to agree to the ''Terms of Service'' detailed on our Web site before we allow them to begin the enrollment process. The ''Terms of Service'' inform the individuals what we will and will not do with their personal information, and the privacy and security protections we provide on all data we collect. These terms also detail the consequences of misusing this service.

To verify the individual's identity, we ask the individual to give us minimal personal information, which may include:

- Name;
- SSN;
- Date of birth;
- Address—mailing and residential;
- Telephone number;
- Email address;
- Financial information;
- Cell phone number; and
- Selecting and answering password reset questions.

We send a subset of this information to the ISP, who then generates a series of out-of-wallet questions back to the individual. The individual must answer all or most of the questions correctly before continuing in the process. The exact questions generated are unique to each individual. This collection of information, or a subset of it, is mandatory for respondents who want to do business with SSA via the Internet. We collect this information via the Internet, on SSA's public-facing Web site. We also offer an in-person identification verification process for individuals who cannot, or are not willing, to register online. For this process, the individual must go to a local SSA field office and provide identifying information. We do not ask for financial information with the in-person process.

We only collect the identity information one time, when the individual registers for a credential. We ask for the User ID (username and password),and we send a security code to the individual's registered second factor (cell phone or email), for every sign in. The individual is required to provide the security code back to us during the online registration and sign in processes, for both standard accounts and accounts with extra security. The respondents are individuals who choose to use the Internet or Automated Telephone Response System to conduct business with SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Requestors	52,698,441	1	8	7,026,459
In-Person (Intranet) Requestors	3,407,319	1	8	454,309
Totals	56,105,760	.....	.....	7,480,768

Dated: July 10, 2017.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2017–14722 Filed 7–12–17; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 10058]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Family Law

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss a draft Guide to Good Practice on Article 13(b) of The Hague Abduction Convention. The public meeting will take place on August 8, 2017, from 9 a.m. until 5 p.m. EDT. This is not a meeting of the full Advisory Committee.

At its 2012 annual meeting, the Council on General Affairs and Policy of the Hague Conference on Private International Law established a Working Group to develop a Guide to Good Practice on the application of Article 13(b) of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The Hague Conference has provided a draft text, which is available at *https://assets.hcch.net/docs/0a0532b7-d580-4e53-8c25-7edab2a94284.pdf.*

The purpose of the public meeting is to obtain the views of concerned stakeholders on the draft Guide to Good Practice. Those who cannot attend but wish to comment are welcome to do so by email to Michael Coffee at *coffeems@state.gov.*

Time and Place: The meeting will take place on August 8, 2017, from 9 a.m. until 5 p.m. EDT in Room 1107, U.S. Department of State, Harry S Truman Building, 2201 C Street NW., Washington, DC 20520. Participants should plan to arrive at the Truman building by 8:15 a.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than August 1, 2017. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

You must notify *pil@state.gov* of your intention to participate in the meeting, either in person or by telephone, to receive an agenda for the meeting as well as directions for arrival at the Truman building.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities.

The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State–36) at *https://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

Michael S. Coffee,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, U.S. Department of State.

[FR Doc. 2017–14727 Filed 7–12–17; 8:45 am]

BILLING CODE 4710–08–P

SURFACE TRANSPORTATION BOARD

Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership

AGENCY: Surface Transportation Board.

ACTION: Notice of Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership.

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Teresa Schlee at *teresa.schlee@stb.gov* or 202–245–0340.

SUPPLEMENTARY INFORMATION: Effective immediately, the membership of the PRB and ERB is as follows:

Performance Review Board

Lucille Marvin, Chairman
Lee Gardner, Member
Rachel D. Campbell, Member
Craig M. Keats, Alternate Member

Executive Resources Board

Rachel D. Campbell, Chairman
Leland L. Gardner, Member
Lucille Marvin, Member
Craig M. Keats, Alternate Member

Raina Contee,

Clearance Clerk.

[FR Doc. 2017–14721 Filed 7–12–17; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–57]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 2, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0635 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Deana Stedman, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *deana.stedman@faa.gov,* phone (425) 227–2148; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on July 7, 2017.

Victor Wicklund,

Manager, Transport Standards Staff.

Petition for Exemption

Docket No.: FAA–2017–0635.
Petitioner: Airbus.
Section of 14 CFR Affected: § K25.1.4(a)(2).
Description of Relief Sought: Petitioner requests relief from the extended operations (ETOPS) requirements of 14 CFR K25.1.4(a)(2) related to the fuel system design and fuel pump power source under emergency power on Airbus Model A330 airplanes.

[FR Doc. 2017–14649 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–55]

Petition for Exemption; Summary of Petition Received; Richard Bundy

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 2, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0285 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building,

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Julia Greenway (202) 267–3896, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 7, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0285.

Petitioner: Richard Bundy.

Section(s) of 14 CFR Affected: § 65.91(c)(1) & (2).

Description of Relief Sought: The petitioner is requesting an exemption from § 65.91(c)(1) to immediately take the required inspection authorization exam and exempt the petitioner from waiting the required 3-year period, based on the petitioner's training and experience gained while serving in the U.S. Army and using his airframe and power plant mechanics certificate acquired by using his training and experience to fulfill the requirements of § 65.77(b).

[FR Doc. 2017–14715 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Akron-Canton Airport, North Canton, Ohio

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Akron-Canton Airport. On July 22, 2016, the FAA determined that the noise exposure maps submitted by Akron-Canton Airport Authority were in compliance with applicable requirements. On January 13, 2017 the FAA approved the Akron-Canton Airport noise compatibility program. All of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

DATES: *Effective Date:* The effective date of the FAA's approval of the Noise Compatibility Program for Akron-Canton Airport is January 13, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Delaney, Community Planner, DET ADO 604, Federal Aviation Administration, Detroit Airports District Office, 11677 Wayne Road, Suite 107, Romulus, MI 48174. Telephone number: (734) 229–2900. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Akron-Canton Airport, effective January 13, 2017.

Under section 47504 of the Act, an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required. Prior to an FAA decision on a request to implement the action, an environmental review of the proposed action may be required. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under applicable law contained in Title 49 U.S.C. Where federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office in Romulus, MI.

The Akron-Canton Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from 2016 to the year 2019 (or beyond). It was requested that the FAA evaluate and approve this material as a Noise

Compatibility Program as described in section 47504 of the Act. The FAA began its review of the program on July 22, 2016 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained twenty-six proposed actions for noise abatement, noise mitigation, land use planning, and program management on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program was approved by the FAA, effective January 13, 2017.

Outright approval was granted for thirteen specific program measures. Thirteen measures were either identified as completed, no longer applicable, or to be discontinued.

These determinations are set forth in detail in a Record of Approval signed by the Great Lakes Region Airports Division Director on January 13, 2017. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Akron-Canton Airport Authority, 5400 Lauby Road, North Canton, OH 44720. The Record of Approval also will be available on-line at: *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/part_150/states/.*

Issued in Romulus, MI, on June 23, 2017.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office.

[FR Doc. 2017–14637 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0190]

Hours of Service (HOS) of Drivers; Application for Exemption; Rail Delivery Services (RDS); Correction

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

ACTION: Notice of application for exemption; request for comments; correction.

SUMMARY: FMCSA published a notice in the **Federal Register** of July 7, 2017, concerning a request for comments on an Rail Delivery Services (RDS) application for exemption. The notice included the incorrect docket number FMCSA–2017–0175. The correct docket number is FMCSA–2017–0190. The Agency will monitor both dockets and ensure that comments submitted are posted in the correct docket.

DATES: Comments must be received on or before August 7, 2017.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (614) 942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Corrections

1. In the **Federal Register** of July 7, 2017, in FR Doc. 2017–0175, on page 31680, in the first column, correct the ''Docket No.'' to read: ''FMCSA–2017–0190''.

2. In the **Federal Register** of July 7, 2017, in FR Doc. 2017–0175, on page 31681, in the **ADDRESSES** header, correct the ''Federal Docket Management System (FDMS) Number'' to read: ''FMCSA–2017–0190''.

3. In the **Federal Register** of July 7, 2017, in FR Doc. 2017–0175, on page 31681, in the **SUPPLEMENTARY INFORMATION** header under the first paragraph of Submitting Comments, correct the ''docket number for this notice'' to read: ''FMCSA–2017–0190''.

4. In the **Federal Register** of July 7, 2017, in FR Doc. 2017–0175, on page 31681, in the **SUPPLEMENTARY INFORMATION** header under the second paragraph of Submitting Comments, correct the ''docket number'' to read: ''FMCSA–2017–0190''.

Issued on: July 7, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–14689 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–20]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and comment request.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the renewal Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On March 14, 2017, FRA published a notice providing a 60-day period for public comment on the ICRs.

DATES: Comments must be submitted on or before August 14, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Administration, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). These telephone numbers are not toll free.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On March 14, 2017, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 82 FR 13711. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is

published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the ICRs and their expected burden. FRA is submitting the renewal requests for clearance by OMB as the PRA requires.

Title: Hours of Service Regulations.

OMB Control Number: 2130–0005.

Abstract: FRA's hours of service recordkeeping regulations (49 CFR part 228, subpart F), include substantive hours of service requirements and recordkeeping and reporting requirements for train employees (*i.e.,* locomotive engineers and conductors) providing commuter and intercity rail passenger transportation (*e.g.,* maximum on-duty periods, minimum off-duty periods, requirements to keep hours of service records and report excessive service). The regulations require railroads to evaluate work schedules for risk of employee fatigue and implement measures to mitigate the risk, and to submit to FRA for approval the relevant schedules and fatigue mitigation plans. These requirements were mandated by the Rail Safety Improvement Act of 2008 (Pub. L. 110–432, Division A). FRA uses the information collected under this rule to ensure compliance with the requirements of the regulation. FRA uses the information collected to verify that train employees of commuter and intercity passenger railroads do not exceed maximum on-duty periods, abide by minimum off-duty periods, and adhere to other limitations in this regulation, to enhance rail safety and reduce the risk of accidents/incidents caused or contributed to by, train employee fatigue.

Type of Request: Extension without change of a current information collection.

Affected Public: Businesses (railroads and signal contractors).

Form(s): FRA F 6180.3.

Total Estimated Annual Responses: 27,687,317.

Total Estimated Annual Burden: 3,514,805 hours.

Title: Reflectorization of Freight Rolling Stock.

OMB Control Number: 2130–0566.

Abstract: This regulation (49 CFR part 224) requires the reflectorization of freight rolling stock (using retroreflective material on freight cars and locomotives) to enhance the visibility of trains to reduce the number and severity of accidents at highway-rail grade crossings where visibility is a contributing factor. FRA uses the information collected to verify that the person responsible for the car reporting mark is notified after the required inspection when the freight equipment has less than 80 percent of the required retroreflective sheeting present, undamaged, and unobscured. Further, FRA uses the information collected to verify that the required locomotive records of retroreflective sheeting defects found after inspection are kept in the locomotive cab or in a railroad accessible electronic database FRA can access upon request. Finally, FRA uses the information collected to confirm that railroads/car owners meet the minimum requirements for the inspection and maintenance of the mandated retroreflective material. The total estimated annual responses and estimated annual burden hours associated with this ICR have been modified since the publication of FRA's first required notice under the PRA. The estimates in this notice are corrections to accurately account for inspection and maintenance requirements and the time required for railroads to notify car owners of the condition of the required retroreflective material.

Type of Request: Revision of a current information collection.

Affected Public: Businesses (railroads and car owners).

Form(s): FRA F 6180.113.

Total Estimated Annual Responses: 34,675.

Total Estimated Annual Burden: 8,467 hours.

Title: Railroad Safety Appliance Standards.

OMB Control Number: 2130–0594.

Abstract: FRA amended 49 CFR part 231 (Railroad Safety Appliance Standards) on April 28, 2011 to add new procedures for approval or modification of safety appliances (§§ 231.33 and 231.35). *See* 76 FR 23714. FRA intended the amendments to promote the safe placement and securement of safety appliances on rail equipment by establishing a process for the review and approval of existing industry standards. This process permits railroad industry representatives to request approval of existing industry standards for the safety appliance arrangements on newly constructed railroad cars, locomotives, tenders, or other rail vehicles, in lieu of the provisions in 49 CFR part 231. This special approval process enhances railroad safety by allowing FRA to consider technological advancements and ergonomic design standards for new car construction. It ensures that new rail equipment complies with applicable statutory and safety-critical regulatory requirements related to safety appliances while providing the flexibility to efficiently address safety appliance requirements on new designs for railroad cars, locomotives, tenders, or other rail vehicles. FRA uses the information collected under this regulation to better adapt to changes in new rail car design while ensuring the safety-appliance arrangements on new cars meet the applicable statutory requirements and are safe. In this renewal submission, FRA is requesting an extension with change due to revised agency estimates.

Type of Request: Extension with change of a current information collection.

Affected Public: Railroads, Labor Unions/General Public.

Form(s): N/A.

Total Estimated Annual Responses: 7,190.

Total Estimated Annual Burden: 35,107 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary for DOT to properly perform its functions, including whether the information will have practical utility; the accuracy of DOT's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Sarah L. Inderbitzin,

Acting Chief Counsel.

[FR Doc. 2017–14683 Filed 7–12–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2017–0003]

Proposed Information Collections; Comment Request (No. 65)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before September 11, 2017.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''Regulations.gov'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *http://www.regulations.gov:* Use the comment form for this document posted within Docket No. TTB–2017–0003 on ''*Regulations.gov,*'' the Federal e-rulemaking portal, to submit comments via the Internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2017–0003 at *https://www.regulations.gov.* A link to that docket is posted on the TTB Web site at *https://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on this notice to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of a continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in comments.

For each information collection listed below, we invite comments on: (a) Whether the information collection 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 information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following information collections (forms, recordkeeping requirements, or questionnaires):

Title: Drawback on Beer Exported.

OMB Number: 1513–0017.

TTB Form Number: F 5130.6.

Abstract: Under the Internal Revenue Code (IRC) at 26 U.S.C. 5055, brewers may receive drawback (refund) of the Federal excise tax paid on beer produced in the United States when such beer is exported or delivered for use as supplies on vessels and aircraft, if proof of such action is provided as the Secretary of the Treasury (the Secretary) may by regulation require. Under this authority, after taxpaid domestic beer is exported to a foreign country, delivered to the U.S. Armed Forces for export, delivered for use as supplies on vessels or aircraft, or transferred to a foreign trade zone for subsequent exportation, the TTB regulations allow the brewer or exporter to file a claim for drawback of the excise taxes paid on such beer using TTB F 5130.6. The required information is necessary to protect the revenue; it provides TTB with documentation through which TTB can determine that beer for which drawback is claimed is eligible for such drawback.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 100.

Estimated Total Annual Burden Hours: 5,000.

Title: Inventory—Manufacturer of Tobacco Products or Processed Tobacco.

OMB Number: 1513–0032.

TTB Form Number: F 5210.9.

Abstract: The IRC at 26 U.S.C. 5721 requires manufacturers of tobacco products and processed tobacco to complete an inventory at the commencement of business, the conclusion of business, and at any other time the Secretary by regulation prescribes. Under the IRC at 26 U.S.C. 5741, these manufacturers are also required to keep records and make them available for inspection in the manner the Secretary by regulation prescribes. Under these authorities, the TTB regulations require manufacturers of tobacco products and processed tobacco to provide inventories on TTB F 5210.9 at the commencement of business, the conclusion of business, when changes in business ownership or location occur, and at any other time as directed by the appropriate TTB officer. This information is necessary to protect the revenue. TTB F 5210.9 provides a uniform format for recording certain inventories, which TTB uses to ensure that a manufacturer's Federal excise tax is correctly determined.

Current Actions: TTB is submitting this information collection for extension

purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 250.

Estimated Total Annual Burden Hours: 500.

Title: Schedule of Tobacco Products, Cigarette Papers, or Cigarette Tubes Withdrawn from the Market.

OMB Number: 1513–0034.

TTB Form Number: F 5200.7.

Abstract: As provided by the IRC at 26 U.S.C. 5705, a manufacturer, importer, or export warehouse proprietor is allowed credit or refund of the Federal excise tax paid on tobacco products, cigarette papers, or cigarette tubes withdrawn from the market when satisfactory proof of the withdrawal is provided to the Secretary. Under this authority, the TTB regulations prescribe the use of TTB F 5200.7 by manufacturers and importers to identify tobacco products, cigarette papers, or cigarette tubes to be withdrawn from the market and the location of those articles. The form also documents the taxpayer's planned disposition of the articles (destroyed, reduced to materials, or returned to bond), and TTB's decision to witness or not witness that disposition. Taxpayers file a completed TTB F 5200.7 to support their subsequent claim for credit or refund of the excise taxes paid on the withdrawn articles. The information collected on the form is necessary to protect the revenue; it provides TTB with certain information needed to determine whether a claim is valid.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 250.

Estimated Total Annual Burden Hours: 2,250.

Title: Tax Deferral Bond—Distilled Spirits (Puerto Rico).

OMB Number: 1513–0050.

TTB Form Number: F 5110.50.

Abstract: Under the IRC at 26 U.S.C. 7652, beverage distilled spirits and nonbeverage products containing spirits subject to tax manufactured in Puerto Rico and brought into the United States are subject to a tax equal to that imposed on domestically produced spirits under 26 U.S.C. 5001, and the Secretary is authorized to prescribe regulations regarding the mode and time for payment and collection of such taxes. Under this authority, the TTB regulations allow respondents who ship such products from Puerto Rico to the United States to either choose to pay the required tax prior to shipment or to file a bond to defer payment of the tax until the submission of the respondent's next excise tax return and payment. The TTB regulations require respondents who elect to defer payment of tax to file a tax deferral bond on TTB F 5110.50, which is a contract between the person withdrawing the products in Puerto Rico for shipment to the United States and the surety. The required information is necessary to protect the revenue; it ensures payment of the applicable tax.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 10.

Title: Usual and Customary Business Records Relating to Denatured Spirits (TTB REC 5150/1).

OMB Number: 1513–0062.

TTB Recordkeeping Number: REC 5150/1.

Abstract: The IRC at 26 U.S.C. 5273 through 5275 prescribes a system of permits, bonds, records, reports, and other requirements to regulate the industrial use of denatured spirits in order to prevent the diversion of such spirits to taxable beverage use. Under 26 U.S.C. 5275, persons who procure, deal in, or use denatured spirits, or who recover specially denatured or completely denatured spirits are required to keep such records regarding such spirits as the Secretary may by regulation prescribe. Under this authority, the TTB regulations require respondents to keep usual and customary records relating to denatured spirits kept during the normal course of business, such as purchase invoices and internal records controlling the flow of ingredients and materials through the manufacturing, packing, storage, and shipment process. The required records protect the revenue and public safety by allowing TTB to determine that denatured spirits were not diverted to beverage use.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 3,430.

Estimated Total Annual Burden Hours: 1 (one).

Title: Tobacco Products Manufacturers—Supporting Records for Removals for the Use of the United States (REC 5210/6).

OMB Number: 1513–0069.

TTB Recordkeeping Number: REC 5210/6.

Abstract: Tobacco products and cigarette papers and tubes are subject to a Federal excise tax under the IRC at 26 U.S.C. 5701. However, pursuant to 26 U.S.C. 5704(b), a manufacturer of such articles may remove them without payment of tax for the use of the United States. In addition, under 26 U.S.C. 5741, manufacturers and importers of tobacco products or cigarette papers and tubes, and export warehouse proprietors, are required to keep such records as the Secretary prescribes by regulation. Under these authorities, the TTB regulations require manufacturers to keep records related to the removals of tobacco products or cigarette papers or tubes for use of the United States, including the date of removal, the name and address of the Federal agency to which the products are shipped or delivered, the kind and quantity of products removed and, for large cigars, the sale price. Records must also be kept detailing any items removed for use of the United States and returned to the manufacturer. The required records are necessary to protect the revenue and prevent diversion of tobacco products by ensuring that the tax exemption is applied only to products that are delivered to a Federal agency for government use.

Current Actions: TTB is submitting this information collection for revision. While the information collection remains the same, TTB is increasing the estimated number of respondents and estimated number of burden hours associated with this information collection due to an increase in the number of tobacco product manufacturers who may provide tobacco products for government use.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 120.

Estimated Total Annual Burden Hours: 600.

Title: Marks and Notices on Packages of Tobacco Products, TTB REC 5210/13.

OMB Number: 1513–0101.

TTB Recordkeeping Number: REC 5210/13.

Abstract: The IRC at 26 U.S.C. 5723 requires certain marks and notices be placed on packages of tobacco products and cigarette papers and tubes before removal. Under this authority, the TTB regulations require that packages of domestically manufactured or imported tobacco products bear certain information to identify the product, its excise tax class, and the quantity or weight of the product, depending on the basis of the tax. The TTB regulations also require certain markings on packages of such articles intended for export. Tobacco products and cigarette papers and tubes for export are either removed without payment of tax or are exported after tax payment with benefit of drawback of the taxes paid, and the required marks on the packages (or shipping containers, under some circumstances) are intended to ensure the product is readily identifiable, to prevent diversion of the products into the domestic market.

Current Actions: TTB is submitting this information collection as a revision. While the information collection remains the same, TTB is increasing the estimated number of respondents to reflect an increase in the number of tobacco industry members. There is no change to the estimated burden hours because affixing the required marks and notices to tobacco packages is a usual and customary business practice.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden Hours: 1 (one).

Title: Usual and Customary Business Records Relating to Wine (TTB REC 5120/1).

OMB Number: 1513–0115.

TTB Recordkeeping Number: REC 5120/1.

Abstract: Under the authority of the IRC at 26 U.S.C. 5367, 5369, 5370, and 5555, the TTB regulations require wineries, taxpaid wine bottling houses, and vinegar plants to keep usual and customary business records relating to wine, including purchase invoices, sales invoices, and internal records, in order to document the use of authorized materials and processes and the production and processing, packaging, storing, and shipping operations. The requirements to keep such records is necessary to protect the revenue. TTB routinely inspects these records to ensure the proper payment of Federal wine excise taxes by these businesses.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 10,970.

Estimated Total Annual Burden Hours: 1 (one).

Title: Labeling of Major Food Allergens and Petitions for Exemption.

OMB Number: 1513–0121.

Abstract: The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) authorizes the Secretary to issue regulations regarding the labeling of wine, distilled spirits, and malt beverages in order to, among other things, prohibit consumer deception and ensure that labels provide consumers with adequate information as to the identity and quality of such products. Under this authority, the TTB regulations allow for the voluntary labeling of major food allergens (as defined in the Food Allergen Labeling and Consumer Protection Act of 2004) used in the production of alcohol beverages. The regulations require that, if any one major food allergen is voluntarily declared, all major food allergens used in the product must be declared, except when TTB has approved a petition for exemption from such labeling. This information collection includes the labeling of allergens and petitions for exemption.

Current Actions: TTB is submitting this information collection as a revision. While the information collection remains unchanged, TTB is increasing the number of respondents, responses, and burden hours due to an increase in voluntary allergen labeling on alcohol beverages.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 1,020.

Estimated Total Annual Burden Hours: 1,060.

Dated: July 10, 2017.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2017–14710 Filed 7–12–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Advisory Committee on Risk-Sharing Mechanisms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Advisory Committee on Risk-Sharing Mechanisms (''Committee'') will convene a meeting on Friday, July 28, 2017, in the Cash Room, Room 2121, 1500 Pennsylvania Ave. NW., Washington, DC 20220, from 10:00 a.m.–1:00 p.m. Eastern Time. The meeting is open to the public, and the site is accessible to individuals with disabilities.

DATES: The meeting will be held on Friday, July 28, 2017, from 10:00 a.m.–1:00 p.m. Eastern Time.

ADDRESSES: The Committee meeting will be held in Room 2121 (Cash Room), Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must either:

1. *Register online.* Attendees may visit *http://www.cvent.com/d/m5qftx* and fill out a secure online registration form. A valid email address will be required to complete online registration.

(**Note:** Online registration will close at 5:00 p.m. Eastern Time on Friday, July 21, 2017.)

2. Contact the Federal Insurance Office at (202) 622–3220, by 5:00 p.m. Eastern Time on Friday, July 21, 2017, and provide registration information. Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, Department of the Treasury, 1500 Pennsylvania Ave. NW., Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a

toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Advisory Committee on Risk-Sharing Mechanisms are invited to submit written statements by any of the following methods:

Electronic Statements

• Send electronic comments to *ACRSM@treasury.gov.*

Paper Statements

• Send paper statements in triplicate to the Advisory Committee on Risk-Sharing Mechanisms, Department of the Treasury, 1500 Pennsylvania Ave. NW., Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its Web site *https://www.treasury.gov/initiatives/fio/acrsm/Pages/default.aspx* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW., Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is the third periodic meeting of the Committee in 2017. In this meeting, the Committee will address, consistent with its statutory mandate, topics related to capital markets and insurance-linked securities and their potential role in risk sharing for terrorism risk insurance. The meeting will include presentations by representatives from Aon, Risk Management Solutions, Hudson Structured Capital Management, and Citizens Property Insurance Corporation.

Dated: July 7, 2017.

Steven Seitz,

Deputy Director, Federal Insurance Office.

[FR Doc. 2017–14636 Filed 7–12–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2017, and ending on September 30, 2017, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 0.92 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328. You can download this notice at the following Internet addresses: *http://www.treasury.gov* or *http://www.federalregister.gov*.

DATES: Effective July 1, 2017 to September 30, 2017.

FOR FURTHER INFORMATION CONTACT: Adam Charlton, Manager, Federal Borrowings Branch, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328, (304) 480–5248; Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.'' 8 U.S.C. 1363(a). Related Federal regulations state that ''Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero.'' 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015–18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect Web site.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2017–14634 Filed 7–12–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0675]

Agency Information Collection Activity: Vetbiz Vendor Information Pages Verification Program

AGENCY: Center for Verification and Evaluation, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Center for Verification and Evaluation (CVE), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 11, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or Terrence Moultrie (00VE), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: (*Terrence.moultrie@va.gov*). Please refer to ''OMB Control No. 2900–0675'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Terrence Moultrie at (202) 461–4300 or FAX (202) 495–5805.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, CVE invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of CVE's functions, including whether the information will have practical utility; (2) the accuracy of CVE's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Vetbiz Vendor Information Pages Verification Program, VA Form 0877.

OMB Control Number: 2900–0675.

Type of Review: Reinstatement of a previously approved collection.

Abstract: Vetbiz Vendor Information Pages Verification Program is used to assist federal agencies in identifying small businesses owned and controlled by veterans and service-connected disabled veterans. The information is necessary to ensure that veteran owned businesses are given the opportunity to participate in Federal contracts and receive contract solicitations information automatically. VA will use the data collected to verify small businesses as veteran-owned or service-disabled veteran-owned.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 10,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–14696 Filed 7–12–17; 8:45 am]

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